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AN

ENQUIRY

Into the Original CONSTITUTION of

PARLIAMENTS

IN

ENGLAND

AND

SCOTLAND;

WITH

Hiſtorical REFLECTIONS on the Proceedings of the PARLIAMENTS of both Kingdoms during the Rebellion from 1641, to 1650.

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AN

INQUIRY

An Enquiry into the Original Inſtitution of Parliaments in ENGLAND, &c.

WHEN *Oliver Cromvel*, aboliſhing Parliaments, had uſurped the ſupreme Power to himſelf, he govern'd the Nations as the moſt abſolute Monarch upon Earth, and his Flatterers extoll'd him to the Skies, proclaim'd his Heroick Actions, and the Happineſs of the *Engliſh* Nation under his Protection; alledging that the true Stroke of governing this Nation was never hit upon till then: Politicians new and old had beaten their Brains, and ſhot at Rovers in writing of diverſe Sorts of Government; But that the wiſeſt of them concurr'd in this Opnion, That there is no Government more reſembling Heaven, or more durable upon Earth, or that hath any certain Principles, but Monarchy, and ſuch a Monarchy as hath an actual viſible Military Strength to ſupport it ſelf, and not only to protect, but to awe the People, and ſuch, ſaid they, was that of their invincible Hero.

There is a periodical Fate that hangs over all Governments, that of *England* might be ſaid to have come to its Tropick, to a Poſture of Turning; the People extremely long'd for a Parliament, and they had a *Long Parliament*, for it laſted longer than all the Parliaments that ever were in *England* ſince the firſt Inſtitution of Parliaments, put them all together: There was never ſuch an Idol upon Earth as that Parliament, for the People thought there was an unerring Spirit tyed to the *Speaker's Chair*, they pinn'd their Salvation upon it, it was held Blaſphemy to ſpeak againſt it; nay, ſome gave out that, that bleſſed Parliament was as neceſſary for our *Reformation*, as the coming of Chriſt was for our *Redemption*; ſuch a ſottiſh Infatuation had ſeiz'd upon ſome Kind of People, but inſtead of doing any Thing tending to the publick Reformation, they were like to undoe all Things, had they ſate longer, which they had done till *Doomes-Day*, had they been let alone, and their Poſteriors never aiked. 'Tis true, they were ſomewhat modeſt at firſt, but they did afterwards monſtrous Things. They aſſumed to themſelves all the Regalia of the Crown, they ſeiz'd upon Sword, Great-Seal, and Soveraignity, upon the Militia, and all the Marks of Majeſty; nay, they did arrogate to themſelves the Legiſlative and Supreme Power, as ſhall afterwards be ſhown in the Method of their Proceedings: But before I enter upon that, I will firſt acquaint my Readers with the Pedigree and primitive Inſtitution of Parliaments, which I will endeavour to do as ſuccinctly as I can: And ſeeing our Parliament was erected at firſt in Imitation of the Aſſembly of the three Eſtates in *France*, it is fit to know the Conſtitution of it.

Obſerve then, that the Calling of the third Eſtate, is but a late Practice, far from all Antiquity, the principal Charges, as

well of Peace as War, of Juſtice and Arms, were held in France by Noblemen only, as retaining this antient Cuſtom from the *Gauls* their Anceſtors, among whom, *Plebs pene ſervorum habebatur loco, quæ per ſe nihil audebat, & nulli adhibebatur conſilio*, as *Cæſar* ſaith, *Lib. 6. De Bella Gallico.* And after King *Clovis* became a Chriſtian, in the Parliaments of *France* held two ſeveral Times in the Year, there entred none but the Prelates and Nobles, but afterwards the Commons or third Eſtate was taken in. The King's Writ goeth to the *Bayliffs Seneſchalli*, or *Stewards* of *Liberties*, who iſſue out Warranrs to all ſuch as have Fees and Lands within their Liberties, as alſo to all Towns, requiring all ſuch as have any Complaints, to meet in the principal City, there to chooſe Delegates in the Name of the Province, to be preſent at the General Aſſembly. Being met at the principal City of the *Bayliwick*, the King's Writ is read, and ſo the Delegates are elected and ſworn; then they conſult what is to be complained of, and fit to be propoſed to the King, whereof there is an Index or Catalogue made, which is delivered to the Delegates to carry to the General Aſſembly: All the *Bayliwicks* are divided into twelve Claſſes; but to avoid Confuſion, and to the End there may not be too great Delay in the Aſſembly, by gathering Voices or Suffrages, every Claſſis compiles a *Brief*, or Book of the Grievances and Demands of all the *Bayliwicks* within that Claſſis, then theſe Claſſes at the Aſſembly compoſe a general Book of the Grievances and Demands of the whole Kingdom. This being the Order of the Proceeding of the Commonality or third Eſtate, the like Order is obſerved by the Clergy and Nobility: So when the three Books or *Cahiers* (as they call them) for the three Eſtates are perfected, then they preſent them to the King by their Preſidents in the open great Aſſembly.

The firſt who preſents the *Cahier* is the Preſident of the Clergy, who begins his Harangue or Oration on his Knees, but at the King's Command he ſtands up, and ſo proceeds Bare-headed: The Preſident for the Nobility ſpeaks next in the like Manner; but the Preſident for the Commons begins and ends his Oration on his Knees: Whilſt the Preſident of the Clergy ſpeaks, the reſt of that Order riſe up and ſtand Bare, till they are bid by the King to ſit down, and be Covered; and ſo the like for the Nobility; but whilſt the Preſident for the Commonality ſpeaks, the reſt are neither bid to Sit, or to be Covered. The Grievances and Demands being thus all delivered at once, and left to the King and his Privy Council without further Debate or Expence of Time, the General Aſſembly of the three Eſtates endeth, expecting afterwards ſuch a Redreſs to their Grievances, as the King and his Council ſhall think fit.

Now theſe Proceedings of *France* are not much unlike the Antient Ways of this Kingdom for many Ages, when all Laws were nothing elſe but the King's Anſwers to the Petitions preſented to him, and his Council, as is apparent by many old Statutes, and the Confeſſion of Sir *Edward Coke*: But I proceed to impart unto you the Manner and Power of the *Britiſh* Parliament; I confeſs 'tis more properly the Buſineſs of a Lawyer, which I am not, otherwiſe than what Nature hath made me, ſo every Man is a Lawyer and Logician alſo, as he is born the Child of Reaſon, for Law and Logick are meerly founded

upon

upon Reaſon; this Diſcurſive Faculty of Reaſon comes with us into the World, accompanyed with certain general Notions, and natural Principles to diſtinguiſh Right from Wrong, and Falſhood from Truth.

Every Free-Holder who hath a Voice in the Election of Knights, Citzens and Burgeſſes to ſit in Parliament, ought to know well, and conſider with what Power he Truſts thoſe whom he chooſeth, in regard the Power of the Houſe of Commons is derived from that Truſt: Now that which gives Authority for the Free-Holders to make their Election, is the King's Writ directed to the Sheriff of the County, in which is expreſſed not only the Sheriff's Duty in point of Summoning, but the Writ contains alſo the Duty and Power of ſuch Knights and Burgeſſes that ſhall be elected; therefore to know the full Extent of the Power of Parliament, you muſt have an Eye, and obſerve well the Words of the Writ, for the Free-Holders cannot transfer a greater Power than is comprized in the Writ, to thoſe they apoint their Servants in Parliament. The Writ being uſually in *Latin*, many Free-Holders, *&c.* perhaps underſtand it not, and conſequently know not what they do: I will therefore render the ſaid Writ into *Engliſh*, for their and the *Engliſh* Readers Benefit.

The KING *to the Viſcount or Sherriff, Greeting.*

WHereas, by the Advice and Aſſent of Our Council, for certain arduous and urgent Affairs concerning Us, the State, and Defence of our Kingdom of England, *and the* Anglican Church, *We have ordain'd a certain Parliament of Ours to be held at Our City of the Day of next enſuing, and there to have Conference, and to Treat with the Prelats, Great Men, and Peers of Our ſaid Kingdom; We Command, and ſtrictly enjoin You, that making Proclamation at the next County-Court after the Receipt of this Our Writ, to be holden the Place and Day foreſaid, you cauſe two Knights girt with Swords, the moſt fit and diſcreet of the County aforeſaid, and of every City of that County, two Citizens, of every Burrough, two Burgeſſes of the diſcreeter and moſt ſufficient, to be freely and indifferently choſen by them who ſhall be preſent at ſuch Proclamation, according to the Tenor of the Statutes in that Caſe made and provided; and the Names of the ſaids Knights, Citizens and Burgeſſes ſo choſen to be inſerted in certain Indentures to be then made between you and thoſe that ſhall be preſent at ſuch Election, whether the Parties ſo elected be preſent or abſent, and ſhall make them to come at the ſaid Day and Place; ſo that the ſaid Knights for themſelves, and for the County aforeſaid, and the Citizens and Burgeſſes for themſelves, and the Commonalty of the ſaid Cities and Burroughs may have ſeverally, from them full and ſufficient Power to Do, and to conſent to thoſe Things, which then by the Favour of GOD ſhall there happen to be ordained by the common Council of Our ſaid Kingdom concerning the Buſineſs aforeſaid; ſo that the Buſineſs may not by any Means remain undone for want of ſuch Power, or by reaſon of the unprovident Election of the aforeſaid Knights, Citizens and Burgeſſes: But We will not in any Caſe, that you or any other Sherriff of Our Kingdom ſhall be elected: And at the Day and Place aforeſaid the ſaid Election being made in full County-Court, you ſhall Certify without delay to*

Us in Our Chancery under your Seals, and the Seals of them who ſhall be preſent at that Election, ſending back unto Us the other Part of the Indenture aforeſaid, affixed to theſe Preſents, together with the Writ. Witneſs Our Selves at Weſtminſter.

This Commiſſion or Writ, is the Foundation whereon the whole Fabrick of the Power and Duty of both Houſes of Parliament is grounded.

The Firſt Houſe is to *Parler* or have Conference, and to Treat with the King; the other Houſe is only to Do and Conſent unto what the other ſhall Ordain by their Help and Conference: So that by this Writ we do not find, that the Commons are called to be any Part of the great Council of the Kingdom, or of the ſupreme Court of Judicature much leſs to have any ſhare in the Legiſlative Power, or to Conſult *de Arduis Regni Negotiis*, of the difficult Buſineſs of the Kingdom, but only to *Conſent*; hence it may be inferred that the King with the Prelats and Peers is properly the Common Council of the Kingdom.

Nor until the Reign of *Henry* the Firſt were the Commons called to the Parliament at all, or had ſo much as a *Conſent* in the making of Laws. *Cambden* in his *Britannia* telleth us, That in the Time of the *Saxon* Kings, and the enſuing Ages, the Great or Common Council of the Land was, *Præſentia Regis, Prælatorum, Procerumque collectorum*, the Preſence of the King with the Prelates and Peers. *Selden* alſo tells us, out of an old Chronicle of the Church of *Lichfield*, That King *Edward* by Advice of his Council of Barons, reviv'd a Law which had lyen Dormant threeſcore and ſeven Years: In the ſame Chronicle 'tis ſaid, That *William* the Conqueror held a Council of his Barons, *A. 4. Regni ſui apud Londinias.* The next Year after he had a Council of Earls and Barons at *Pinenden-Heath*, to decide the great Controverſie 'twixt *Lanfranc* Arch-biſhop of *Canterbury*, and *Odo* Earl of *Kent*.

In 21. *Edward* the Third, there is mention made of a Parliament held 5*to. Conqueſtoris*, wherein all the Biſhops of the Land, Earls and Barons made an Ordinance touching the Exemption of the Abby of *Bury* from the Biſhop of *Norwich*.

In 2d. of *William Rufus*, there is mention made of a Parliament *de Cunctis Regni Principibus*. In 7th. of his Reign there was another Parliament at *Rockingham* Caſtle, *Epiſcopis, Abbatibus, Cunctiſque Regni Principibus Coeuntibus.*

At the Coronation of *Henry* Firſt, Laws were made *per Commune Concilium Baronum*. In 3d. 10th. and 23d. Year, he held a Parliament or great Council of his Barons, Spiritual and Temporal.

Henry 2d. in his 10th. and 22d. Year, had a Parliament at *Clarendon*, and *Nottingham*, and afterwards at *Windſor* and *Northampton*, wherein there is mention made only of Prelats and Peers.

Richard Firſt after him in his 5th Year, held a Parliament at *Nottingham*, conſiſting of Biſhops, Earls and Barons. King *John* in his firſt Year ſummon'd his *Magnates*, his great Men to a Parliament at *Wincheſter*, and the Words of the Roll are, *Commune Concilium Baronum Meorum.*

In

In 6 of *Henry* 3d. the Nobles granted the King for every Knight's Fee two Marks in Silver at a Convention in Parliament; he had afterwards Parliaments at *London*, *Weſtminſter*, *Merton*, *Wincheſter*, and *Marleborough*: Now theſe Precedents ſhew, that from the Conqueſt until a great part of the Reign of *Henry* 3d. in whoſe Days it is thought the Writ for electing of Knights was firſt framed, the Barons without the Commons made the Parliament or Common Council of the Kingdom.

Thus it is plain, that, in Ages paſt, the Commons were no Part of the High Court of Parliament; and it is as clear as the Sun, that the Conqueror firſt brought this Word *Parliament* with him, being a *French* Word, and made it a free Denizon of *England*, being not known before; for therein the *Normans* did imitate the *Romans*, whoſe Practice was, that whereſoever they conquered, they brought in their Language with the Lance, as a Mark of Conqueſt. I could produce a great many other Inſtances in the *Saxon*'s Times, who govern'd by the Council of the Prelats and Peers, not admitting the Commons to any Communication in Affairs of State; there are Records hereof above 1000 Year old, in the Reign of King *Ina*. *Offa*, and *Ethelbert*, and the reſt of the ſeven Kings during the Heptarchy, but theſe I have Mentioned are ſufficient, and ſo I ſhall conclude this Point with the Teſtimony of Mr. *Pryn*, who was in high Repute, moſt part of the *Long Parliament*, and appeared ſo eagerly for the Priviledge and Power of the Lower-Houſe: In his Book of *Treachery* and *Diſloyalty*, he proves, that before the *Norman* Conqueſt, by the Laws of *Edward* the *Confeſſor*, the King was to do Juſtice by the Council of the Nobles of his Realm: He would alſo prove that the Earls and Barons are above the King, and ought to Bridle him when he exorbitates from the Law, but not a Syllable of the Commons. He further tells us, That the Peers and Prelats have often tranſlated the Crown from the Right Heir, whereof out of his great Reading he urgeth diverſe Examples, in all which high Tranſactions and Changes, as he there mentions, he confeſſeth the Commons had nothing to do, the deſpotical and ruling Power, as well as the Conſultative, being in the Council of Prelates and Peers; and if Mr. *Pryn* could have found half ſo much Antiquity for the Knights, Citizens, and Burgeſſes, without Queſtion, we ſhould have heard from him with a Witneſs; but while he converſeth with elder Times, he meets not with ſo much as the Names of Commoners in any Record. I told you before, this Word *Parliament* came in with the *Norman*; yet the Commons were not called to Parliament till the Reign of *Henry* the Firſt, which was a good while after the Conqueſt; to which purpoſe Sir *Walter Rawleigh* writes, ſaying, *It is held that the Kings of* England *had no formal Parliament till about the* 18 *Year of* Henry *Firſt, at which Time the Commons were ſummoned, and the great Charter was granted*: And if we believe Sir *Walter Rawleigh* and others, the Houſe of Commons and *Magna Charta*, had firſt but obſcure Births, being ſprung from Uſurpers, and foſtered afterward by Rebellion; for King *Henry* I. did but Uſurp the Kingdom, and therefore to ſecure himſelf the better againſt *Robert* his eldeſt Brother, he courted the Commons and granted them that great Charter, with *Charta de Foreſta*, which King *John* confirmed

ed upon the ſame Grounds, for he was alſo an Uſurper, *Arthur* Duke of *Britain* being the undoubted Heir of the Crown; ſo the Houſe of Commons and theſe great Charters had their Original from ſuch as were Kings *De Facto*, not *De Jure*; but whereas it was in the Reign of *Henry* I. the People were admitted to the common Council of the Kingdom, yet they were not conſtantly called, for tho' the ſaid King called them to his Coronation, and again in 15 and 18th. of his Reign, yet he did not ſo always, neither many of theſe Kings that Succeeded: There is one remarkable Paſſage in the Reign of that King, that in his 3d. Year, for the Marriage of his Daughter, he raiſed a Tax upon every *Hide* of Land, by the Advice only of his Privy Council, without Conſulting publickly with either Prelat, Peer, or People, and ſo did divers of his Anceſtors, and Succeſſors alſo after the Commons were admitted to partake of the common Council.

But to illuſtrate this a little further, notwithſtanding that the Commons were ſought unto in *Henry* I's. Time, yet they were not conſtantly and formally ſent unto till *Henry* the Third, in whoſe Reign (as before obſerved) the Writs of Summons for Elections were firſt iſſued; but the ſucceeding Kings aſſum'd a Power to regulate thoſe Writs at Pleaſure by the ſole Advice of their Privy Council, as we read in the Time of *Henry* the Sixth, who was the firſt Framer of that famous Ordinance. "Whereas Elections of Knights have been made "with great Outrages and exceſſive Numbers of People, of which moſt "part was People of no value, yet pretend a Voice equal to worthy Knights "and Eſquires, whereby many Riots, Manſlaughters, and Diviſion "among Gentlemen ſhall likely be. Our Lord the King hath ordain'd, "that Knights of Shires be choſen by People dwelling in the Counties, "every one of them having Lands or Tenements to the value of 40 *s.* "*per Annum*, at leaſt, and that he who is choſen be dwelling and re-"ſiant within the Counties where they are elected. I will next pro-"ceed to ſhow you that the Modeſty of the Houſe of Commons was "very great in former Times.

They did arrogate no more Power than what the King's Writ gave them, they avoided Matters of State as much as they could.

The 13. of *Edward* 3d. a Parliament was called to Conſult of the Domeſtick Quiet, the Defence of the Marches of *Scotland*, and Security of the Seas from Enemies, the Commons were deſired their Advice herein, but they humbly deſired not to be put to Conſult of Things *Desquels ils n'ont pas cogniſance*, Things whereof they had no Cogniſance. 21. Of the ſame King, the Commons being moved for their Advice touching the Proſecution of a War with *France*, by an Elegant Speech of Juſtice *Thorp*, after four Days Conſultation, they anſwered, That their humble Deſire of the King was, that he would be adviſed therein by the Lords, being of more Experience than themſelves in ſuch Affairs.

In the Sixth Year of *Richard* II. the Parliament was call'd to Conſult, whether the King ſhould go in Perſon to reſcue the great City of *Gaunt*, or ſend an Army: The Commons being ask'd their Advice, they humbly anſwered by Sir *Tho. Puckering* their Speaker, that the Councils of War did more appoſitely belong to the King and his Lords. The next Year after, the Commons are will'd to adviſe of the Articles

of

of Peace with *France*, but they modeſtly excuſed themſelves as too weak to Counſel in ſo weighty Matters: And being charg'd again, as they tendered the Repute of their Country, and Right of their King, they humbly delivered their Opinions rather for Peace than War: Such was the Moderation and Modeſty of the Houſe of Commons in former Times, that they declin'd the Agitation and Cognizance of high State-Affairs, eſpecially Foreign, humbly transferring them to their Sovereign and his Upper-Council; a Parliament-Man then (I mean a Member of the Commoners Houſe) thought it to be the adequat Object of his Duty, to ſtudy the Welfare, to complain of the Grievances, and have the Defects ſupply'd of that Place for which he ſerv'd: The Burgeſſes of *Lin*---- ſtudied to find out ſomething that might advantage the Trade of Fiſhing; He of *Norwich* what might Advantage the making of Stuffs, and ſo of the reſt, and in doing this they thought they complied with their Obligation, and diſcharged their Conſciences as honeſt Men.

Having briefly declared the Original, Duty and Power of the great Council of the Kingdom, with the primitive Inſtitution of the Houſe of Commons, I will proceed now to that grand Queſtion, where the ſupreme Legiſlative Power reſides? Certainly if we examine the the Writs of Summons for both Houſes, with the Bodies and Titles of our Antient Acts of Parliament, we ſhall find the Supremacy and Power of making Laws to reſt in the King or Governour in Chief; Now when the Parliament is ſtyled *The Supreme Court*, it muſt be underſtood properly of the King ſitting in the Houſe of Peers in Perſon, and but improperly of the Lords without him: It is granted that the conſultative, directive, or deliberative Power is in the Houſe of Peers, the performing and conſenting Power in the Houſe of Commons, but the legiſlative Power lodgeth in the Perſon of the King; for Parliaments are but his Productions, they derive their Being from the Breath of his Writs: He, as Sir *Edward Coke* doth poſitively affirm 4. *Par. Inſtitut. Fol.* 3. 4. is *Caput principium & finis*, he is the Head, the Beginning and Ending, the *Alpha* and *Omega* of Parliaments.

I know that ſome do affirm, That the legiſlative Power is in the two Houſes, and that they are above the King.

The difference 'twixt the King or ſupreme Magiſtrate, and the Parliament, is this, The one repreſents GOD, and the other the People. 'Tis true, as I ſaid before, the conſultative Power is in the Parliament, and that, but by the King's Permiſſion, but the commanding Power reſides ſtill in the chief Governour, and is inſeparable from him, the Reſults and Productions of Parliament, at beſt are but Bills: 'tis the King's Breath makes them Laws, till then they are but dead Things, they are like Matches unfir'd; 'tis the King that gives Life and Light unto them: The Lords Adviſe, the Commons Conſent, but the King Ordains; they mould the Bills, but the King makes them Laws, therefore they are ever after called *The King's Laws, the King's Judgements*: The Lords, &c. have the indicative Part, but the King the imperative: The Liberties alſo of the People flow all from him, for *Magna Charta* begins thus, Henry *by the Grace of GOD, Know ye that we of our meer and free Will, have given theſe Liberties*, &c. In the ſelf ſame Style runs *Charta de Foreſta*.

The

The Statute of *Marleborrough* 52. *Henry* III. runs thus, *The King hath made theſe Acts, Ordinances, and Statutes*, &c.

3. *Edwardi Primi*, the Title of the Statute is, *Theſe are the Acts of King* Edward. And after it, it follows. *The King hath ordained theſe Acts*, &c.

The Statute of *Quo Warranto* ſaith, *Our Lord the King at his Parliament, of his ſpecial Grace, and for Affection which he beareth to his Prelates, Earls, Barons, and Others, hath granted, That they who have Liberties by Preſcription, ſhall enjoy them*, &c.

The Statute *De finibus Servatis*, the King's Words are, *We intending to provide Remedy in our Parliament, have Ordained*, &c.

22. *Edward* III, it is ſaid, *The King makes the Laws by the Aſſent of Peers and Commons*, and not, *The Peers and Commons*

As for the Parliaments in *Henry* IV. *Henry* V. *Henry* VI. *Edward* IV. and *Richard* III's Reigns, moſt of them all agree in this one Title, *Our Lord the King, by the Advice and Aſſent of his Lords, and at the ſpecial Inſtance and Requeſt of the Commons, hath Ordained* ------

The Statutes in *Henry* the VII's Days, do for the moſt Part agree, both in the Titles and Bodies of the Acts, in theſe Words, *The King by the Aſſent of the Lords Spiritual and Temporal, and the Commons in Parliament aſſembled, hath Ordained.*

But very remarkable it is, That the Houſe of Commons was never petitioned unto till *Henry* VII's Reign, and it was about the Middle thereof: Which Petition is inſerted among the Statutes; but tho' the Petition be directed to the Houſe of Commons in Point of Title, yet the Prayer of the Petition is turned to the King, and not to the Commons. The Petition begins thus. *To the right Worſhipful Commons in this preſent Parliament aſſembled, ſhews to your diſcreet Wiſdoms, the Wardens of the Fellowſhip of the Craft of Upholſterers within* London, &c. But the Concluſion is, *Therefore, may it pleaſe the King's Highneſs, by the Advice of the Lords Spiritual and Temporal, and his Commons in Parliament*, &c.

Thus it appears, that in our Fore-fathers Days it was punctually expreſſed in all Laws, That the Statutes and Ordinances were made by the King: And withal, it is viſible by what Degrees the Stiles and Titles of Acts of Parliament have been varied, and to whoſe Advantage.

Now, for further Proof, that the Legiſlative Power is in the King, it is to be obſerved, as Sir *Edward Coke* ſaith, That all Acts of Parliament in former Times, were in Form of Petitions: Now, if the Petitions were from Parliament, and the Anſwer from the King, 'tis eaſie to judge who makes the Acts.

When *Magna Charta* was confirm'd, there are found theſe two Proviſions, *in Articulis ſuper Chartas.*

Firſt, *Nevertheleſs, the King and his Council do not intend, by Reaſon of this Statute, to diminiſh the Regal Right*

Secondly, *Notwithſtanding all theſe Things before-mentioned, or any Part of them, both the King, his Council, and all they who were preſent, Will and Intend, That the Right and Prerogative of his Crown ſhall be ſaved to him in all Things.*

I pro-

I proceed to enquire, whether by an implicite Faith, we are to obey what the Parliament determines? Or, whether it may err or not? And, what are thoſe Privileges it hath?

Touching the firſt, no doubt we are to acquieſce in what a true Parliament ordains; for it is generally Binding, and requires an univerſal Obedience; becauſe it bears the Stamp of Royal Authority, and of the Supreme Magiſtrate, who is the Head of the Parliament, who is to conſult with his Judges and Privy Council, muſt be ſatisfy'd in Conſcience of the Juſtneſs of ſuch Bills that he is to paſs for Laws; becauſe afterward he is to protect them, and his Soul lyes by Oath at the Stake for the Defence and Safeguard of them: He is alſo to conſult with his Learned and Privy Council, whether they trench upon his Royal Prerogative? And then his Anſwer is, *Le Roy S' Aviſera*, The King will conſider of it: Which, tho' in civil Terms, is equivalent to a flat Denyal.

Touching the ſecond Point, Sir *Edward Coke* tells us, That Parliaments have been utterly deceived, and that in Caſes of greateſt Moment, ſpecially in the Interpretation of Laws; and in that Point the twelve Judges, who are called, *The Sages and Oracles of the Law*, are to be believed before the Parliament, whoſe Office is more to frame new Laws, than to expound the old: Parliaments being compoſed of Men, may err; Mr. *Pryn*, as I alledged before, tells us how many Uſurpers they have preferred before the rightful Heirs; How often did *Henry* the Eight make Parliaments the Panders of his Luſt? In whoſe Time there are three Acts obſervable.

Firſt, *That Proclamations ſhould be equivalent to Laws.*

Secondly, *That Queen* Elizabeth was *Illegittimate.*

Thirdly, *That the King in his Will might name whom he pleaſed to be his Succeſſor*: Beſides, in leſs than four Years, Religion was changed twelve Times in his Reign by Parliament.

Touching the laſt Act of naming a Succeſſor, *Henry* the Eighth, ſome two Years before his Death, ſummon'd a Parliament, wherein he intimated to them, that one of the main Deſigns of convocking that Parliament, was, *That they ſhould declare a Succeſſor to the Crown*: But the Parliament with much Modeſty anſwered, That *touching that Point, it belong'd to his Majeſty to conſider of it, and conſult his Learned and Privy Council about it; and whomſoever his Majeſty would pleaſe to nominate in his Laſt-Will, they would Confirm and Ratifie.* Whereupon old *Harry* made a formal Will, which was enroll'd in the Chancery, wherein (remembring the perfidious Carriage of *James* the Fourth, his Brother in Law) he *declared the Iſſue of his eldeſt Siſter, the Queen of* Scots, *being Foreigners, incapable to inherit, and the Iſſue of* Charles Brandon, *after the Progeny of his own Body, to ſucceed next:* This Will continued in the Chancery all *Edward* the VI's Time, till Q. *Mary*, who about the Middle of her Reign, did cancel it.

But I return to the third Point, *The Privileges of Parliament:* If we will give Credit to Sir *Edward Coke*, who was a great Champion of the Houſe of Commons, and no Friend to Prerogative (which he uſed to call that *Great Monſter*) the Privilege and Freedom from Arreſts, is the only Privilege of Parliament. He cannot, or at leaſt, he doth not ſo much as name any other in his Section of the Privileges of Parliament;

ment; neither is this Privilege ſo Unqueſtionable and Clear as ſome do imagine, as diverſe Examples may be produced in the Reign of Q. *Elizabeth*, who was ſo great a Darling of the Commons: In the 39 of her Reign, Sir *Edward Hobby*, and Mr. *Brograve* Attorney for the Dutchy, were ſent by the Houſe to the Lord Keeper, to require his Lordſhip to revoke two Writs of *Subpanas*, which were ſerv'd upon Mr. *Thomas Knevet* a Member of the Houſe; the Lord Keeper demanded of them, whether they were appointed by any adviſed Conſultation of the Houſe, to deliver this Meſſage unto him with the Word *Require*; they anſwered, *Yes:* He replyed, *As he thought reverently and honourably of the Houſe, and of their Liberties and Privileges, ſo to revoke the ſaid* Subpænas *in that Sort, was to reſtrain her Majeſty in her greateſt Power which is in the publick Adminiſtration of Juſtice, in the Place wherein he ſerves her, therefore he concluded, That as they had required him to revoke his Writ, ſo he did require further Deliberation.*

I could produce ſeveral other Precedents to this Purpoſe, as 18 and 27. *Eliz.* but I forbear to enlarge: Now, the original Writ for Election, which is the Foundation of the whole Buſineſs, makes Mention of no ſuch Privilege: And 'tis a Rule, that "To vary from the "Meaning of the Writ, makes a Nullity of the Cauſe, and the Proceed-"ings thereupon: For, where a Commiſſioner exerciſeth more Power "than is warranted by his Commiſſion, the Act is not only Invalid, "but Puniſhable.

The End and Scope of Privileges of Parliament, is not to give Power to do any publick Act not warranted by the Writ, but they are intended as Helps only to enable the Members to the performing their Duty, and ſo ſubſervient to the Power compriſed in the Writ: For Inſtance, the Freedom from Arreſts doth not give any Power at all to the Houſe of Commons, to do any extraordinary Act thereby, but the Members are made the more capable to attend the publick Service, by being free from the Trouble of Arreſts: Nor can the Freeholders by their Elections give any ſuch Privilege of Exemption from Arreſts. but is the meer Gift and Grace of the ſovereign Prince, and yet in Point of Treaſon, Fellony, or Breach of the Kings Peace, this Privilege extends not.

Nor could the Houſe of Commons puniſh any for Breach of this their Priviledge, till they had conferr'd with the Lords; and till the Puniſhment had been referr'd by them to the Commons: A notable Example of this we have in 33. *Henry* VIII. *George Ferrers* the King's Servant and Burgeſs of *Plymouth* going to Parliament, was arreſted by Proceſs out of the King's Bench for Debt; which being ſignified to Sir *Thomas Moyl* their Speaker, the Sergeant that attended the Houſe was ſent to the Counter to demand *Ferrers*, the Officers of the Counter refuſe to deliver him, and giving the Serjeant ill Language, a Scuſle happened; the Sheriff of London being ſent for, took Part with the Counter, and ſo the Serjeant return'd without the Priſoner: This being related to the Houſe of Commons, they would ſit no longer without their Member, and deſiring a Conference with the Lords, Sir *Thomas Audley* then Chancellor, and the reſt, judged the Contempt to be very great, and referr'd the Puniſhment to the Houſe of Commons it ſelf.

Con-

Concerning Liberty or Freedom of Speech, which is held another Privilege of Parliament; there is a Speech of Sir *Thomas Moors* upon Record, who being choſen Speaker, 14 *Henry* VIII. he firſt diſabled himſelf, and then petitioned the King in Behalf of the Houſe, "That "if in Communication or Reaſoning, any Man ſhould ſpeak more "largely than of Duty he ought to do, all ſuch Offences ſhould be par-"doned, which was granted and entred upon Record. In which Petition it is obſervable, That Liberty or Freedom of Spech is not a Power for Men to ſpeak what they will or pleaſe in Parliament, it is a Priviledge only not be puniſhed, but pardoned for the Offence of ſpeaking more largely than in Duty they ought to do; which in a Right Conſtruction muſt be underſtood of raſh, unadviſed, ignorant, or negligent Eſcapes and Slips in Speech, not for willful, malicious, much leſs for treaſonable Speeches; and then the King's Pardon was deſired to be upon Record, that it might be pleaded at Bar to all Actions.

The Commons in Qu. *Elizabeth*'s Time were warned, not to meddle with the Queen's Perſon, the State, or Church-Government.

Indeed that popular and long-liv'd Queen trenched much more upon the Privileges of Parliament, and the Liberties of the People, than any of the Kings her Succeſſors, of which I will produce ſome Inſtances: 23 *Elizabeth*, Mr. *Paul Wentworth* moved in the Houſe for a publick Faſt, and for a Sermon every Morning at ſeven a Clock before the Houſe ſate: The Houſe hereupon was divided, 100 were againſt it, and 150 for it, and ſo an Order paſſed accordingly; the Queen being told hereof, ſent a Meſſage to the Houſe by her Vice-Chamberlain; *That her Highneſs had great Admiration of the Raſhneſs of the Houſe, in committing ſuch an apparent Contempt of her expreſs Command, as to put in Execution ſuch an Innovation without her Privity or Pleaſure firſt known.* Thereupon Mr. Vice-Chamberlain moved the Houſe to make an humble Submiſſion to her Majeſty, acknowledging the ſaid Offence and Contempt, and to crave Remiſſion for the ſame, with a full Purpoſe to forbear committing of the like hererfter: So by the Suffrage of the whole Houſe, Mr. Vice-Chamberlain carryed their Submiſſion to the Queen accordingly.

35 *Elizabeth*, Mr. *Peter Wentworth*, and Sir *Henry Bromley* delivered a Petition to the Lord Keeper, deſiring the Lords of the Upper-houſe to be Supplicants with them of the Lower-houſe unto her Majeſty, for entailing the Succeſſion of the Crown, whereof a Bill was ready drawn. The Queen was highly diſpleaſed, and charged her Council to call the Parties before them, ſo Sir *Thomas Henage* was ſent to fetch them; they were firſt commanded to forbear going to the Houſe, and not to go out of their ſeveral Lodgings; afterward they were called before the Lord Theſaurer, Lord *Buckhurſt*, and Sir *Thomas Henage Wentworth* was committed to the Tower, and *Bromley* to the Fleet, together with Mr. *Stevens*, as alſo Mr. *Welch* Knight for *Worceſterſhire*.

In one Parliament, when Mr. *Coke*, afterward's Sir *Edward Coke*, was Speaker, the Queen ſent a Serjeant at Arms into the Houſe of Commons, and took out Mr. *Morris*, and committed him to Priſon, with diverſe others, for ſome Speeches ſpoken in the Houſe; thereupon Mr. *Wroth* moved the Houſe, That they would be humble Suiters to her Majeſty, that ſhe would be pleaſed to enlarge thoſe Members of the

Houſe that were reſtrained, which was done accordingly; and Anſwer was ſent by her Privy Council, *That her Majeſty had committed them for Cauſes beſt known to her ſelf, and to preſs her Highneſs with this Suit, would but hinder the whole Good they ſought: That the Houſe muſt not call the Queen to an Account for what ſhe doth of her Royal Authority*, &c.

39. *Elizabeth*, The Commons were told that her Majeſties Pleaſure was, *That if the Speaker perceived any idle Heads, which would not ſtick to hazard their own Eſtates, but meddle with reforming the Church, and tranſforming the Common Well, by exhibiting Bills to that Purpoſe, the Speaker ſhould not receive them, till they were viewed and conſidered by thoſe who are fitter to conſider of ſuch Things, and can better judge of them:* Moreover, the Queen rejected 48 Bills, which had paſſed both Houſes in that Parliament. Serjeant *Heal* ſaid (43. *Elizabeth*) publickly in Parliament, *That he marvelled the Houſe ſtood either at the granting of a Subſidy or Time of Payment, conſidering that all we have is her Majeſties, and ſhe may lawfully at her Pleaſure take it from us, in Regard ſhe had as much Right to all our Lands and Goods, as to any Revenue of the Crown*: And he ſaid, *He could prove it by Precedents in the Reigns of* Henry III. *K.* John, *and K.* Stephen. This Speech agrees with that which Sir *Edward Coke* hath in his Inſtitutes, where he ſaith poſitively, *That the firſt Kings of this Realm had all the Lands of* England *in Demeſne, and the great Mannors and Royalties they reſerved to themſelves, and enfeoffed the Barons of the Remnant for the common Defence of the Kingdom.*

Thus it is clear, that not only all Power and Grace, but all Parliamentary Priviledges flow from the Conceſſions of the Sovereign Prince, 'tis a Maxim in Philoſophy (as a Gentleman wittily obſerves) *Quod dat formam* ----- That which gives the Form, gives the Conſequence of the Form; the King by his Writ gives the very Eſſence and Form to the Parliament, being the Production of his Breath: Therefore Priviledges which are but Conſequences of the Form, muſt neceſſarly proceed from him.

In 21. of King *James*, a Declaration was ſent from *New-Market* to the Parliament, wherein he Aſſerts, That moſt Priviledges of Parliament grow from Precedents, which ſhew rather a Tolleration than an Inheritance, therefore he could not allow of the Style they uſed to him, calling it *Their Antient and undoubted Rights and Inheritance*, but could rather have wiſhed they had ſaid, *Their Priviledges were derived from the Grace and Permiſſion of his Anceſtors and himſelf.* Thereupon he concludes, that he cannot with Patience endure his Subjects to uſe ſuch antimonarchical Words concerning their Liberties, except they had ſubjoined, *They were granted unto them by the Grace and Favour of his Progenitors*; yet he promiſes to be careful of whatſoever Priviledges they enjoy by long Cuſtom, and incontrolled lawful Precedents.

At the Preſentment of the Speaker of the Houſe of Commons to the King upon the firſt Day of Parliament, the Speaker in the Name and Behalf of the Commons, humbly craves, That his Majeſty will pleaſe graciouſly to grant them their accuſtomed Liberties and Priviledges, which Petition of theirs is a fair Recognition of the primitive Grace and Favour of the Sovereign Prince, in beſtowing of Priviledges, and is a ſhrewd Argument againſt any other Title. For our Anceſtors would

would not have been ſo Ceremonious, nor ſo full of Complement, as to beg that of Grace, which they might have claimed *De Jure* by Right: And the renewing this Petition at the beginning of every Parliament, argues the Grant to be but Temporary.

But this was far from being the Doctrine of the late *Long Parliament*, whoſe Privilege flew ſo high, that they o'ertopped the Prerogative; for they drew the Reins of all Rule and Reaſon into their Hands, and left the Governour in Chief neither of them; and if he chanced to ſend them any Advice or Admonition, 'twas preſently cryed up to be, *Breach of Privilege, Breach of Privilege.*

Having made it Evident in the foregoing Enquiry, That the High Court or Common Council of this Kingdom was compoſed at firſt of Prelats and Peers, that *Parliament* is but a modern Word, and came in after the *Norman* Conqueſt: Alſo that the Commons came to be made a Houſe, and that *Magna Charta*, and *Charta de Foreſta*, were not free, ſpontaneous Grants, but that they were in a Manner extorted from Kings in Times of Neceſſity and Confuſion: And alſo, that the primitive and ordinary Way of Government, was the one ſupreme Magiſtrate alone, and his Council of State, and when he pleaſed, by the common Council of the Kingdom; I come now to give a ſhort Account of the Proceedings of the late *Long Parliament* in 1641.

To do this I muſt look a little Northward, for there the Cloud of all our enſuing Confuſions began to commence firſt.

The *Scots* Nation were ever uſed to have their King perſonally Reſident among them, and tho' King *James* by reaſon of his Age, Bounty and Liberality, and long Breeding there, with other Advantages, drew ſuch extraordinary Reſpects from them, that they continued in a pretty good Conformity all his Reign, but after his Death they were often heard to mutter at the Remoteneſs and Abſence of their King, and that they ſhould now become a kind of Province truckling under *England*, by reaſon of ſuch a Diſtance from the Royal Court: Moreover, ſome of their Nobles and Gentry found not at the *Engliſh* Court, that Countenance, Familiarity, Benefit and Honours, which they expected: Theſe diſcontented Parties tampered with the *Presbyterian* Miniſters up and down *Scotland* to obtrude and hold out to the People what Doctrines were put into their Mouths by their Patrons, ſo that the Pulpits every where rung of nothing but of Invectives againſt certain Obliquities and Soleciſmes, and I cannot tell what, in Government; and many Glances they had at the *Engliſh* Church. Yet all this while there was not Matter enough for an Inſurrection, until the *Liturgy* was ſent thither. This by the Incitement of theſe fiery *Pulpiteers*, was cryed up to be the greateſt Idol that poſſibly could be brought into their Kirk, in ſo much that when it was firſt offered to be Read, the Women and baſer ſort of Mechanicks threw Stools at the Biſhops Heads, and were ready to Tear them in pieces; and here began the firſt Storm.

The King having Notice hereof, ſent a Proclamation ſignifying, *That whereas he had recommended that Book of Common Prayer to be practiſed among them, whereby he himſelf ſerved GOD Almighty twice a Day, he did it only out of a Deſign to eſtabliſh an Uniformity of publick Divine Service in all his Dominions, eſpecially in that his Native Country.*

But

But since it had produced such dangerous Effects, he was content to revoke it absolutely, &c. *Therefore exhorted and required every one to whom it had given any Scandal, to return to his former Obedience, and serve GOD as he was wont*, &c. *offering therewith a general Pardon, and to pass an Act of* Amnestia *for the Abolition of all Offences passed.*

This Proclamation, tho' it breathed nothing but Grace, would not suffice; but having one Inch given them, they would take an Ell, and nothing would serve their Turn but an utter Extirpation of *Episcopacy*; for by trampling the Miter under their Feet, they hoped to have some of the Birds Plumes, being plucked, to feather their own Nests, and they brought their Work about. Good Lord, what a deal of Dirt was thrown into the Bishops Faces by every Rural petty Clerk? What infamous Ballads were Sung up and down? What a thick Cloud of Epidemical Hatred hang suddenly over them, so far that a Dog with a white Neck, was called *Bishop* amongst them.

The chief Contrivers of this Uproar finding their Design to fadge so well, and perceiving the Country to be so eagerly bent against *Bishops*, and the King unwilling to alter the Government his Father had left him, they put themselves in Arms, and raised Forces to beat down the Mitre with the Sword, if the Scepter would not do it. To the *English* Frontiers they march'd with a numerous Army, pretending they came as Petitioners, but they brought their Petition upon the Pikes Point. Hereupon the King rais'd a Counter Army, and march'd as far as *Berwick*, but some of the great Ones about him grew Cold in the Action, so a Pacification was shuffled up.

Hereupon a Parliament was summoned in *England*, *a Parliament* do I call it? It was rather an *Embrio* of a *Parliament*, a kind of *Ephemeran* Thing. In this short sitting, the King declared to both Houses the Indignities he had received from his *Scots* Subjects, and therefore proposed a Supply of Twelve Subsidies to suppress that Rebellion, and in lieu thereof, he was willing to forbear, and utterly to abolish Ship-Money, which he had Reason to think Legal, being advised thereto by *Noy* his Attorney General, who was cryed up to be so great a Clerk in the Law; yet he would not rest there, but he advised further with his learned Council of the Serjeants at Law and others, who concurrd in Opinion with *Noy*; nor would he rest there, but he had the Approbation of all the Judges singly, and afterwards of the major Part of all the Twelve upon a leasurly Debate; this he thought sufficient to induce his Conscience to hold the thing Legal; and it was proved that the Moneys Levied that way, were employed to the right Use. Some say the House was inclinable to comply with the King, but as the ill Spirit would have it, that Parliament was suddenly broke up, and it had been then better for him that they who gave him that Counsel had been in *Arabia*, or beyond the *Line*, in their Way to *Madagascar*, yet those Men were of high Request in the *Long Parliament* afterwards.

The King reduced to such Straits, and resenting still the Insolence of the *Scots* Covenanters, proposed the Business to his Privy Council, who suddenly made a considerable Sum for his Supply, whereunto diverse of his Domestick Servants did Contribute; among others who were active herein, the Earl of *Strafford* bestirred himself notably, who having

having got a *Parliament* to be called in *Ireland*, went over, and with incredible Celerity raiſed 8000 Men, and procured Money of the *Parliament* there to maintain them. An Army was alſo levied here which marched to the North, and there Fed upon the King's Pay a whole Summer.

All this while, the *Scots Covenanters* were not idle, but having punctual Intelligence of every Thing that paſſed at Court from their dear Brethren the *Engliſh Presbyterians*, they armed alſo, and preferring to make *England* the Stage of the War, got over the *Tweed*, where they found the Paſſage open, all the Way till they came to the River of *Tine*: And tho' there was a conſiderable *Engliſh* Army of Horſe and Foot at *Newcaſtle*, yet they never offered to face the *Scots* all the while. At *Newburg* there was indeed a ſmall Skirmiſh, but the *Engliſh* Foot would not Fight; ſo *Newcaſtle* Gates flew open, without any Reſiſtance, where it is thought they had more Friends than Foes, for all *Presbyterians* were their Confederates.

The King being advanc'd as far as *York*, ſummon'd all the Nobles to appear, and Adviſe with in this Exigence; Commiſſioners were appointed on both ſides, who met at *Rippon*, and from thence adjourn'd to *London* where the *Long Parliament* was ſummon'd.

The *Scots* having thus got quietly into a Town, they never took and reſted themſelves in *Newcaſtle*: Our *Long Long Parliament* began at *Weſtminſter*, being conveen'd, the King told them, *That he was reſolved to caſt himſelf and his Affairs wholly upon the Affection and Fidelity of his People, whereof They were the Repreſentatives, therefore wiſhed them to go roundly on to cloſe up the Ruptures that were made by that unfortunate War, and that the two Armies, one* Engliſh, *the other Foreign, which were gnawing the very Bowels of the Kingdom, might be both diſmiſſed*: Touching Grievances of all Natures, *He was ready to Redreſs them*; Concerning the Ship-Money, *He was willing to paſs a Law for the utter Abolition of it, and to cancel all the Enrollement*; *therefore he wiſh'd them not to ſpend much Time about that*: For Monopolies, *He deſired to have a Liſt of them, and he would Damn them all in one Proclamation*: Touching ill Counſellors, either in *Whitehall* or *Weſtminſterhall*, either in Church or State, *He was reſolved to Protect none*; *therefore he deſired that all Jealouſies and Miſunderſtandings might vaniſh*: And ſo concluded with this Caution, *That they would be careful how they ſhook and diſputed the Frame of an old ſettled Government too much, in regard it was like a Watch, which being put aſunder, can never be made up again if the leaſt Pin be left out.*

Thus at the beginning of the Parliament there were great hopes of fair Weather after that cold Northern Storm, and that we ſhould be rid of the *Scots*, but that was leaſt intended till ſome Deſigns were brought about: The Earl of *Strafford*, the Archbiſhop of *Canterbury*, the Judges, and diverſe others are clap'd up, and the Lord Keeper *Finch* took a timely Flight to the other ſide of the Sea; and in lieu of theſe, the Biſhop of *Lincoln* is enlarged, *Baſtwick*, *Burton* and *Pryn*, who were ſtrong *Presbyterians*, were brought into *London* with a kind of *Hoſanna*.

Yea, to comply further with them, he took as it were into his Boſom, I mean he admitted to his Privy Council, ſuch Parliament

Lords

Lords who were held the greateſt Zealots among them; the Lord *Say* was made Maſter of the Court of Wards; the Earl of *Eſſex* Chamberlain, Moreover, to give a further Evidence how firmly he was rooted in his Religion, and how much he deſired the ſtrengthening it abroad, the Treaty of Marriage went on 'twixt his eldeſt Daughter and the Prince of *Orange*; hereunto may be added as a ſpecial Act of Complyance, the paſſing of the Bill for the *Triennial Parliament*, and laſtly he was brought to paſs the Act of Continuance, which proved too fatal unto him.

Touching the *Triennial Parliament*, I heard of a prophetick Miſtake that came from a Lady of Honour, who ſending News that Time to the Country, wrote, *That the King had paſs'd a Bill for a Tyrannical Parliament*; whereas ſhe ſhould have ſaid *Triennial:* And touching the *Act of Continuance*, or *perpetual Parliament*, I heard a Tale of *Archy* the Fool, who being asked, Whether the King did Well in paſſing that Bill? Anſwered, *That he knew not whether the King was a greater Fool to grant it, or they greater Knaves to ask it.* But the Saying of the late Earl of *Dorſet* is remarkable, who ſaluted the King next Morning with the Stile of *Fellow Subject*, in Regard that by that Grant he had transferr'd both Crown, Sword and Scepter to the Parliament, for now we may ſay, That England hath four hundred and odd Kings in her: But 'tis obſerved, That Princes of a hard Deſtiny follow the worſt Councils. But to return, in Lieu of theſe monſtrous Acts of Grace and Truſt, they promiſed, ſpecially upon the paſſing of the laſt Act, *That they would make him the moſt Glorious, the beſt beloved, and richeſt King that ever reigned in* England: Which Promiſe they voted, and confirmed with the deepeſt Proteſts and Aſſeverations that could be. Add to this, That the Earl of *Strafford* was paſſed over to them, who after a long and coſtly Trial, was condemned to the Scaffold, and ſo made a Sacrifice to the *Scots*, (and them) who ſtay'd chiefly for his Head.

The *Scots* Presbyterian Army was diſmiſs'd a little after, having had Fidlers Fare, Meat, Drink and Money, for eleven Months together in *England*, with *Strafford*'s Head to Boot. So the King prepared to go for *Scotland* according to Articles, to hold a Parliament there. This fill'd the Houſe of Commons with an odd Kind of Jealouſie, therefore they caſt about how to prevent the Journey; they beat their Brains Night and Day about it, ſo far, that they ſat upon *Sunday* in Debate, but with another Proviſo, *That it ſhould not be made a Precedent for future Ages. as the other Caveat was for their Proceedings againſt the Earl of* Strafford. Well, the King went to his *Scots* Parliament, where he fill'd every Blank; for they did but *Ask* and *Have*. He granted them what poſſibly they could propone in Point of Governing, both for *Kirk* and *State*, many received new Honours, they made Havock, and divided all the Biſhops Lands amongſt them; during his Stay in *Scotland*, that formidable hideous Rebellion in *Ireland* broke out; which the *Iriſh* impute to the *Engliſh* Parliament: *Firſt*, In Regard that one of their Accuſations againſt *Strafford* was, *That he uſed the* Papiſts *in that Kingdom too favourably. Secondly*, For the rigorous Proceedings intended by the ſaid Parliament againſt the *Engliſh* Catholicks. *Thirdly*, For the Deſign the *Engliſh* Parliament had to bring the

Dutch

Dutch and the *Scots* to plant in *Ireland*, which mightily incenſed the *Iriſh*. And *Laſtly*, The ſtopping of that *Iriſh* Regiment of caſhiered Souldiers, which the King promiſed by Royal Word and Letter to the King of *Spain*, who relying upon that Imployment, which was denyed them by the *Engliſh* Parliament, rather than to Begg, Steal, or Starve, they turned Rebels. Indeed that Act of ſtaying the *Iriſh* Forces was much cenſured, to the Diſhonour of the King, and Reproach of the Parliament, conſidering how the Marqueſs de *Valida*, and *Malvezzi*, and Don *Alonzo de Cardenas*, who were all three Ambaſſadors here for the King of *Spain* at that Time, having by Dependance upon the ſacred Word and Letter of a King, impreſſed Money, and provided Shipping for their Tranſport, which came to a great Charge.

But to proceed, the King having ſettled *Scotland*, was at his Return to *London*, received with much Joy; but tho' he was brought with a Kind of *Hoſanna* into one End of the Town, he found a *Crucifige* at the other; for at *Weſtminſter* there was a Remonſtrance fram'd, a Work of many Weeks, and voted in the Dead of Night, when moſt of the moderate and well-minded Members were retir'd to their Reſt, in which, with as much Induſtry and Artifice as could be, all the old Moats in Government were expoſed to publick View, from the firſt Day of the King's Inauguration to that very Hour.

Obſerve here how agreeable this was with the Proteſtation the Houſe made formerly, *To make him the moſt Glorious and beſt beloved Prince*, &c. This brought further Conceſſions from the King, by condeſcending to an Act for putting down the *Star Chamber Court*, the *High Commiſſion Court*, the *Court of Honour*; nay, he was contented that his *Privy Council* ſhould be regulated, &c. Nay further, he paſs'd a Bill for the innovating and utter excluſion of the *Spiritual Lords* from the *Parliament* for ever. *Laſtly*, He truſted them with his *Navy Royal*, and call'd home at their Motion Sir *J. Penington*, who had then the Guard of the *Narrow Seas*.

The Parliament having the Navy at their diſpoſing (which they found to be in a good Equippage, *Gramercy* Ship-money) and having choſen the Earl of *Warwick* Commander in Chief, notwithſtanding the King excepted againſt him, they demand all the Land Souldiers and Military Strength of the Kingdom, to be managed by them, and to be put in what Poſture, and under what Commanders they pleaſed; but the King anſwered, *That he would conſider of this*: And it was the firſt Thing he ever denyed them, yet at laſt he was content to grant them this alſo for a limited Time; but that would not ſerve the Turn. Hereupon growing ſenſible how they incroached every Day more and more upon the Royal Prerogative, he thought it was high Time for him to look to himſelf: And intending, with ſome of his Menial Servants, to go to *Hull* to ſee a Magazine of Ammunition which he had bought with his own Treaſure, he was in a hoſtile Manner keep'd out, the Gates ſhut, Cannons mounted, Piſtols cock'd and levell'd at him, and there the King's Party ſaid, the Warr firſt began.

The King being ſo ſhut out of one Town (I mean *Kingſtoun* upon *Hull*) might ſuſpect that an Attempt might be made to ſhut him in within ſome other: Therefore he made a Motion to the *York-ſhire*

Gentlemen to have a Guard for the Preſervation of his Perſon, in Imitation of the Parliament who had taken a Kind of choice *Prætorian Band* many Months before for their Safe-guard, tho' without the King's Conſent: The Northern Men came cheerfully to this Service; wherewith the Parliament being not well pleaſed, they interdicted all Trade to *Newcaſtle*.

But I muſt make a Step back; when the King was returned from *Scotland*, he retired to *Hamptoun* Court; yet upon the Lord Mayor and Cities Solicitation, he came back to *Whitehal* to keep his *Chriſtmas*: But when the Bill againſt Biſhops was in Agitation, which laſted above ten Months, and was twice caſt out of the Houſe of Peers, a Crew of bold ſturdy Merchanicks, Mariners, and Tarpaulings, came from the City, and ruffled again before *White-hall* and *Weſtminſter-hall*, and would have violated the Abby of *Weſtminſter* under the Parliament's Noſe; ſo that for many Nights a Court of Guard was forc'd to be kept in the Body of that Church.

The King finding ſuch Diſtempers ſtill in the Parliament, and knowing the chiefeſt Authors of them, whom he had impeached before, but could get no Juſtice againſt them in an ordinary Way, tho' he deſired the Parliament to direct him in a Courſe how to go on in the Impeachment in ſuch Extremity; for deſperate Diſeaſes requiring deſperate Cures, he took the *Palſgrave* with him, and making Uſe of the next Coach he met with at the Court Gate, he went to the Houſe of Commons in Perſon, to demand five Members, whom he would prove to be Traitors in the higheſt Degree, and the Fomenters of all theſe Diviſions, proteſting unto them upon the Word of a King, *That they ſhould have as fair and legal Trial as ever Men had:* Mean Time, he deſired only, *That their Perſons might be ſecured.*

The Walls of both Houſes, and the very Stones of *London* Streets, did ſeem to ring of this high Carriage of the King's, and the Sound thereof far and near unto the adjacent Countries; whence the *Plebeans* (by Incitement of ſome of the Members) came in whole Herds to the City, and ſtrutting up and down the Streets, had nothing in their Mouths, but *Privilege of Parliament, Privilege of Parliament.*

Here obſerve, That Queen *Elizabeth* had done much higher Things, as I remarked before.

The *Londoners*, with the *Eſſex* and *Buckingham-ſhire* Men, being incited by *Hambden* (who was kill'd afterwards upon the ſame Turf of Earth where he call'd the People together) came in great Swarms to Town, and joining with the *Suburbian Rabble*, they brought the five Members the next Day to the Houſe, in a Kind of Triumph, being guarded by Water as well as by Land, by ſuch Companions: They had got notice of the King's Deſign of coming to the Houſe, and retired to the City, ſo that he miſſed them: A little after, ſundry Troops of Country Horſe came, and inſtead of Feathers and Ribbands, they carryed a Paper-Proteſtation in their Hats, as the *Londoners* had done a little before upon their Pikes Point, to this Effect: The firſt Point was, *To maintain the true Proteſtant Religion againſt all Popiſh Innovations* (*but no other*) The ſecond was, *To maintain the Perſon, Prerogative, and Honour of the King.* The third, *The Privilege and Power of Parliament.* And laſtly, *The Property and Liberty of the Subject.*

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The King, rather than expoſe himſelf to ſuch Indignities, and there being dark Whiſpers of an Attempt upon his Perſon, he retired to *Hamptoun Court*, thence to *Windſor* Caſtle, where having accompanied the Queen and his eldeſt Daughter to the Sea-ſide for *Holland*, and having commanded the Prince to attend him at *Greenwich* againſt his Return, the Prince had been ſurprized and brought to *London*, had the King ſtayed but a Quarter of an Hour longer: Thence he removed to *York*, where he ſojourned all that Summer; and among other Things, he ſent for his Great Seal thither, which rode Poſt, and was purſued by the Parliament, but not overtaken.

The King being ſettled at *York*, the Parliament ſtill move him to have the diſpoſing of the Militia, and not to be limited to any Time, which he denyed, for he was loath to be diſarmed, and part with his Sword; therefore he put forth his *Commiſſions of Array* according to the old Law of *England*, as he alledged, which declares it to be the undoubted Right and Royal Signory of the King, to Arm or Diſarm any Subject. The Parliament ſend out counter Commands for executing the ſaid Militia, ſo by this claſhing 'twixt the *Commiſſion of Array* and the *Militia*, the firſt Flaſh of that cruel and cruentous Civil War may be ſaid to have broke out. A cloſs Committee of Secrecy was appointed, which was mix'd of Lords and Commons, and I cannot tell how many rural and ſubordinate Committees of mean Mechanical Men, who ſtood higher a Tip-toe in conventing Lords and Knights before them, than the Parliament Members themſelves; an Admiral alſo was ſent to Sea, againſt whom the King excepted.

The *Presbyterians* who had brought in the *Scots* Army before, and were the activeſt Men, cryed out, *That the whole Kingdom was like to be ruined by ſecret Plots and Machinations; that there was a Deſign to bring in the Pope, and to caſt the Civil Government into a* French *Frame*, whereof they made the Pulpits to ring up and down; nor did the Pulpit only help to kindle this Fire, but the Preſs did alſo contribute much thereto, Dangers and Jealouſies, and a kind of Superfetation of Fears did daily encreaſe in every Corner.

Touching the Cry of Popery, I may confidently affirm, that there was a Plot to bring in *Mahomet* as ſoon, to bring in the *Alcoran* and *Talmud* as ſoon; yet I believe there was a pernicious Plot to bring in a new Religion, But what Religion, I pray? It was not *Popery*, but *Presbytry*, and with it to Uſher in *Buchanan* and *Knox*, and to caſt our Church and State into a *Scots* Mould. To introduce which,

The Hierarchy, and *Engliſh* Liturgy, being voted down, there was a general Liberty given to all Conſciences in Point of Religion, and this was called *The Liberty of the Goſpel, and the Liberty of the People*, the two Things chiefly aimed at by this bleſſed *Parliament* of *Reformation*

I told you before, that beſides other Cauſes, the claſhing of the Militia, with the Commiſſion of *Array*, did put all things in *Diſarray*, through the whole Kingdom, many Declarations came from the King, but they were prohibited at laſt to be publiſhed, and the Printers puniſhed. A little after, the Parliament voted an Army to take away ill Counſellours from about the King.

The King underſtanding that the Parliament did thus Arm, he was told, *That it was not fit for him to be Idle*: So, having levied ſome

Forces in the North, he marched with them to *Nottingham*, where he ſet up and diſplayed the Royal Standard.

I muſt ſtep a little back to inform you: As that Army of the Parliament's was a levying, Propoſitions of a very high Nature were ſent to the King, conſiſting of Nineteen, too long to inſert here, which the King received with Indignation, as he had Reaſon, ſaying, *That he was worthy to be King no longer over them, if he ſhould ſtoop ſo low:* Some alledged that the very propounding them was Treaſon in the higheſt Degree, for they ſtruck at the very Foundation and Root of all Royal Authority: Therefore, the condeſcending to them, would render him a King of Clouts, and fit to be houted at by all his Neighbours.

This made the Pulſe of the Parliament beat higher, and to publiſh to the World a new Declaration, in Subſtance as follows.

That the Parliament hath an abſolute Power of declaring the Law, and whatſoever they declare, is not to be queſtioned by King, Magiſtrate, or Subject: That no Precedents can limit or bound their Proceedings: That they may diſpoſe of any Thing wherein King or Subject hath Right for the publick Good, wherefore they may be Judges without the Royal Aſſent: That none of their Members ought to be moleſted or meddled withall for Treaſon Fellony, or any other Crime, unleſs the Cauſe be brought before them, to judge of the Fact: That the Soveraign Power reſides in them: That levying of War againſt the Command of the King, tho' his Perſon be preſent, is no levying of War againſt the King; but the levying of War againſt his politick Perſon and Laws, that is the only levying of War againſt the King.

This was not the firſt Time this new Kind of Metaphyſick was found out to abſtract the Perſon of the King from his Office, and make him have two Capacities Private and Politick, for the ſame Metaphyſick was made Uſe of in *Edward* the II's Reign, but it was exploded, and declared by Act of Parliament afterwards to be deteſtable, and damnable Treaſon: This were to make Sovereignty (by ſeparating it from the Perſon) to be a Kind of Platonick Idea hovering in the Air, to make a King a ſtrange Kind of *Amphibium*, to make at the ſame Inſtant a King and no King of the ſame *Individuum*, a Power which the Caſuiſts affirm GOD Almighty never aſſum'd, to do any Thing that implies Contradiction,

But I return: The Parliament, or rather the Presbyterian Army (for the Presbyters ſate then at the Helm) encreaſed dayly, and Things being at ſuch a deſperate Point, there were two choice Earls (*Southamptoun* and *Dorſet*) ſent from *Nottingham* with a pathetick Letter of the King's to the Parliament, which made little or no Impreſſion at all, tho' it was all written with the King's own Hand, for the Parliament was formerly netled at a Declaration he had ſent, when having made a Motion to go himſelf in Perſon to ſuppreſs the *Iriſh Rebels* (which Attempt the *Scots* approved of, and highly applauded) but was not at all liked by the *Engliſh* Parliament.

After this there were Overtures for a Treaty, which came to nothing; ſo the Parliament Army began to advance, and the King's did dayly encreaſe.

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Whereupon the Lords that were about the Person of the King, whereof there were above Threescore, made this publick *Manifesto.*

We do engage our selves not to obey any Orders or Commands whatsoever, that are not warranted by the known Laws of the Land: We engage our selves and Fortunes to defend your Majesties Person, Crown and Dignity, with your just and legal Prerogative, against all Persons, and Power whatsoever: We will defend the Religion established by the Law of the Land, the lawful Liberties of the Subjects of England, *with the just Privileges of your Majesty and the Parliament: And we engage our selves further, not to obey any Rules, Orders, or Ordinances whatsoever, concerning any Militia, that hath not the Royal Assent.*

To this was subjoined another.

We, whose Names are under-written, in Obedience to his Majesties Desire, and out of the Duty we owe to his Honour, and to Truth, being here on the Place, and Witnesses of his Majesties frequent and earnest Declarations and Professions, of his abhorring all Designs of making War upon the Parliament, and not finding any Counsels that might reasonably beget the Belief of any such Design, we do profess before GOD, and testifie to all the World, That we are fully persuaded, his Majesty hath no such Intention, but that all his Endeavours tend to the firm and constant Settlement of the true Religion, *and the just Privileges of Parliament, the Liberty of the Subject, with the Laws, Peace, and Prosperity of this Kingdom.*

But all this would not serve the Turn, for neither Parliament nor People would give Credit to any Thing that drop'd from the King or Peers; especially the City of *London*, where the Presbyterians plaid their Parts notably, by inciting the People to a War, for preventing the Introduction of Popery, Slavery and Superstition.

Thus a fierce funestous Civil War was a fomenting in the very Bowels of *England*, which broke out into many Storms and Showers of Blood: But I pass the various Successes of the War 'twixt King and Parliament, which was carryed on for the Space of four Years, and I return to the Parliament House.

All Artifices are used to make the King odious, and both the Press and the Pulpit join in the Work; new Distinctions are coined, That tho' he was *GOD's Anointed*, yet he was *Man's appointed*: That he had the *Commanding*, but not the *Disposing Power*: That he was set to *Rule*, but not to *Over-rule* us: That he was King by *Humane Choice*, not by *Divine Charter*: That he was not King *by the Grace of God*, but *by the Suffrage of the People*: That he had not *Implicite Trust*, or *Peculiar Property* in any Thing: That *Populus est potior Rege*: That *Grex Lege*, *Lex Rege potentior*: That the King is *Singulis Major*, but *Universis Minor*: *Lastly*, That he was but a *Creature*, and *Production of Parliaments*, &c.

Moreover, they used all Artifices to raise Money: The first Way that the Parliament used (after a Royal Subsidy of 400000 Pound) was to Poll us, then they went on to Clip and Shave us, and had they continued longer, they had fallen a Flaying of us: They lighted on no less than twenty several Ways to get Money above Board, whatever they got below. Poll-money and the Royal Subsidy were the first two. 3. Free Loans and Contributions upon the publick Faith, which swell'd to an incredible Sum. 4. The *Irish* Adventures for Sale of Lands, the

the firſt and ſecond Time. 5. The general Collection for Relief of the diſtreſs'd Proteſtants in *Ireland*, to which Uſe the *Hollanders* ſent over Money and Corn near upon 50000 *L.* and the *Engliſh* Collections amounted to near four Times ſo much; ſo that in all both Collections amounted to above 200000 Pound *Sterling*, and yet not 10000 Pound, not the twentieth Part was employed to the right Uſe. 6. They grew ſo hungry for money, that they impos'd the weekly Meall. 7. The City Loan, after the Rate of five Subſidies. 8. A particular Aſſeſſment for bringing in our dear Brethren the *Scots*. 9. The five and twentieth Part. 10. The Weekly Aſſeſſment for the Lord General's Army. 11. The weekly Aſſeſſment for Sir *Thomas Fairfax*'s Army. 12. The weekly Aſſeſſment for the *Scots* Army. 13. The weekly Aſſeſſment for the *Britiſh* Army in *Ireland*. 14. The weekly Aſſeſſment for the Lord *Manchester*'s Army. 15. The King's, Queen's, and Prince's Revenues. 16. Sequeſtrations and Plunder by Committees. 17. Compoſitions with Delinquents, and Fines, which came to Sums paſt all Underſtanding. 18. The Exciſe Money. 19. Fortification Money. 20. Biſhops, Deans, and Chapters Lands. 21. The Ship *Santta Clara*, valued in Money and Merchandize, at 80000 Pound *Sterling*, which was detain'd at *Southamptoun* for Reparation of thoſe Damages that ſome *Engliſh* Merchants had received by the *Spaniards*, as it was declared in the Houſe, but not a Farthing was employed to that Uſe, notwithſtanding that many with Expence of Time and Coin, did ſolicite for the ſame. And *Laſtly*, The Houſhold Stuff of the King, Queen, Prince, and Others, whereof ſome ſmall Proportion was allotted for Payment of the Arrears of the King's poor Servants: Nay, they took away Moneys given to repair Churches, and in ſome Places robb'd the very *Lazaretto*.

Theſe vaſt Sums amounted to a huge Maſs of Money enough to have purchaſed half a Dozen of Kingdoms, inſtead of purging one; and tho' an Account was often voted and promiſed, yet it was never performed; for then they ſhould have diſcovered how much their own Memberſhips had ſwallowed of the Publick Treaſure for their own private Intereſt, by free Gifts among themſelves, and the Perquiſits of gainful Offices.

They paſs'd a ſolemn Ordinance, called *The Self-denying Ordinance*, whereby they made themſelves incapable of Offices, and other Things of Gain, which was thought to aim principally to remove *Eſſex* from the Generalſhip, whom they began to Suſpect, but nothing was afterwards leſs obſerved.

Then the *Covenant* was conjur'd up by the *Presbyterian* Party, to Tyrannize o'ere the Conſciences of Men, and what an unmanly and diſhonourable a Thing was it for the *Engliſh* Nation to bind their Souls for conſerving the Religion of another foreign People, the Doctrine, Diſciplin and Government of that Church, which not one *Engliſhman* in a thouſand did underſtand, and yet every one muſt take the *Holy Covenant* by a blind implicit Faith, it might be ſaid to be an Engine forg'd in *Hell* for Battery of the Conſcience.

There was likewiſe another Oath conſiſting all of Negatives called, *The Oath of Abjuration*, that came out about the ſame time, which extended to take away the Liberty of the very Thought, it did not only

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reach the outward Man, but it ranſacked all the Cells of his Brain, with the intern Ideas and Cogitations of his Mind: There is a kind of Inhumanity, and αλογια in that Oath; for all Laws are made, and all Magiſtrates are inſtituted to reſtrain the outward Man, and regulate his Actions, as they refer to the Publick; for it matters not what private Crochets we have in our ſingle Selves, ſo we be in Conſort and Tune with our Companions; the Law conſiders us as we have reference one to another, and to the Body Politick, therefore it neither uſeth to Limit our private Spendings, nor tyes us to any courſe of Dyet or Phyſick, becauſe our ſingle Fortunes and Health, tho' they mightily concern our ſelves, yet they are but of little importance to the Publick; and as every one enjoys this Liberty in relation to his Body and Goods, ſo our Souls ought to be allowed a proportionable ſhare of that Freedom, ſo that it prove no Scandal to the Publick. Our Thoughts, as long as we keep them within Doors, cannot any way Offend, therefore the Law hath provided no Puniſhment for them; the Intention of Murther is taken no Notice of by the Law, if the Deſign of Miſchief ſtay at the Imagination, and proceeds no further to any outward Attempt, the Law refers that to the *Great Tribunal of GOD*, who is *the ſole Searcher of the Heart.*

If a Law were juſtifiable againſt erroneous Thoughts in Points of Religion, with an Oath of *Abjuration* to make the ſuſpected accuſe himſelf, *Why* (as a witty Gentleman doth reaſonably infer) *ſhould there not an Oath be alſo provided againſt Thoughts of Treaſon, Adultery, and Murder?* And ſo bring every one to ſwear, whether he be guilty or not of ſuch Crimes.

Now touching this Oath of *Abjuration*, it is not contented with a modeſt and ſimple denial, that one believes there are no ſuch and ſuch Things, but he muſt Swear poſitively and point blank, there are no ſuch Things at all; Now, tho' I am of the ſame Opinion with *Copernicus* that the Earth moves, and the Sun ſtands ſtill, yet I would be loath to ſwear either the one or the other.

Moreover, this Oath hath a double Edge, for either it muſt wrong one's Conſcience, or ruin his Fortunes; beſides he is condemned without either Accuſer or Witneſs, the Party himſelf muſt be both againſt himſelf, and what can be more repugnant to Nature?

For it is not only oppoſite to the Law of Nature, but the common Law of *England* doth ſo abhor that any ſhould Accuſe or Condemn himſelf, that there were extraordinary Proviſions made againſt it by our Progenitors; therefore if any had been cited in the *Spiritual Court* to Accuſe himſelf *pro ſalute animæ*, a Prohibition lay at common Law to ſtop and ſuperſede their Proceedings.

From all this it may be inferred, that if the *Presbyterian* had eſtabliſhed himſelf, he had prov'd the ugliеſt Tyrant that ever was on GOD's Earth, if you relate to Soul, Body, or Goods, in Lieu of 26 *Biſhops*, we ſhould have had Nine Thouſand and odd Popes, who would have delivered us over to Satan, ever and anon, and puzzled Us with their Parochical, Congregational and National Claſſes. But I cannot wonder enough at the Proeeedings of that Parliament, that they ſhould buſie themſelves ſo much, and undertake to frame and impoſe new Oaths, when by the Law of the Land they had not Power

as

as much as to Administer an old Oath to the meaneſt Subject; and touching that *Covenant*, what could be more oppoſite to their former Oaths? For therein they offered their Souls to preſerve that Religion which was eſtabliſhed by the Laws of *England*, and in the *Covenant* they bind themſelves to Conſerve that which was eſtabliſhed by the Laws of *Scotland*, and to that purpoſe they may be ſaid to *Offer* to GOD for their Security to Satan. I have but only touched at their Carriage in Spirituals, I proceed to inform you how they did comport themſelves in Civil Matters, after they had monopoliz'd unto themſelves all Power by the Act of *Continuance*.

Firſt, I muſt tell you, that touching that Act, that monſtrous Act, the ſoundeſt Lawyers of the Kingdom were of Opinion, that it was of no Validity, that it was void in it ſelf, in regard that what Grants or Commiſſions ſoever the King makes, the Law preſuppoſeth, they are always made with theſe *Proviſos*, *Salvo Jure Regio*, *Salvo Jure Coronæ*; now it was impoſſible that any Grant could poſſibly trench more upon the Right of the King or Crown, as that extravagant Act of *Continuance*, therefore it was null in its own Nature at the very firſt; nay, as ſome affirm'd, the very Propoſal of it was Treaſon in a high Degree.

But having hooked the Power thus into their Hands, they ſtrain'd it up to the higheſt pitch that could be; they made themſelves Landlords of all the three Kingdoms, it was a common thing to take any Mans Houſe over his Head, and make uſe of it for their Service; they meddled with every thing ſo far, that ſcarce a Church-Warden or Veſtry-Man could be made without them, they would have a Hand in making common Council-Men and Conſtables with other petty Officers; nothing was ſo common in thoſe Times as a Charge without an Accuſer, a Sentence without a Judge, and a Condemnation without Hearing how many were outed of their Freeholds, Liberty and Livelyhoods before any Examination, much leſs Conviction? How many Appeals were made from ſolemn Tribunals of Juſtice to inferior Committees? How common a Thing was it to make an Order of theirs to Control and Suſpend the very Fundamental Laws of the Land?

They ſcrewed up their Authority every Day higher and higher, they declare, that an Ordinance of Parliament without the Royal Aſſent, is equivalent to an Act; they declare that not only the conſultative, miniſterial and directive Power is in them, but alſo the Judicatory, Deſpotical and Legiſlative higheſt Power is inherent in the Walls of their two Houſes; that their Power is alſo Arbitrary, Ubiquitary and Incontrolable; that they are not ſubject to Diſſolution or Time, being the eternal and irrevocable Truſtees of the *Common-Wealth*, with ſuch *Rodomontado's*.

'Tis true they had got the Seal and Sword, which the Law of *England* doth appropriate to the chief Magiſtrate; and it was told them to their Faces by the knowingeſt Members of the Houſe, *That to cut a broad Seal of* England, *was the higheſt Treaſon that poſſibly could be attempted, without the Aſſent of the Governour in Chief*; And how many horrid Acts and Paſſages of Injuſtice (beſides that of murdering their Sovereign) might be produced, which would make a greater Volum than the Book of Martyrs, Acts that were done before the War began,

and

and after it was ended, which takes away the ſpecious Pretence and Colour of Neceſſity, wherewith they varniſhed all their Exceſſes and irregular Actions.

Now there may be Tyranny in one, in few, and in many; in one as in the great *Turk* (and indeed all the Eaſtern Emperors) who with his breath alone, without any legal Proceſs, can take any ones Life away; and is ſole Proprietor of the whole Country, in ſo much that the beſt Man in *Turky* cannot leave one Foot of Land as an Inheritance to his Son, but it reverts to the Grand Signeour. *Secondly*, There may be Tyranny in few, as in the Thirty Men of *Athens*, or in ſome Privy Council of State, *&c.*

Laſtly, There may be Tyranny in many, as in ſome general Great Convention, or popular Aſſembly, and this is the worſt of all, it being a Rule, That *plebs eſt peſſimus Tyrannus*, The People is the worſt of Tyrants.

The *Long Parliament* degenerated to ſuch an One, whereof thouſands of Inſtances might be produc'd, let this One ſerve at preſent, The Army had occaſion to make their Addreſs to the Houſe, upon a Buſineſs of a juſt and general Concernment, but the Grandees of the Houſe anſwer'd, That if they ſhould read theſe Demands, they might chance to find them of that Nature, as they could not with Juſtice deny them, nor with Honour grant them, *&c.* But herein they ſhew'd themſelves but poor Politicians; for it is a true Rule ------- *Arma tenenti, omnia dat, qui juſta negat.* And was it not Time then for the Army to think of diſmiſſing their Memberſhips? But the truth is, that if we go to the right Rule of Parliament, they had diſſolved themſelves, I cannot tell how long before; for beſides that, the original Writ from whence they deriv'd their Power, was void by the King's Death. How often did they riſe up in Confuſion, without adjourning the Houſe? How oft did they ſit without a Speaker, he being fled to the Army? How many hundred Ways did they break their own Privileges? What Things did they do which they voted ſhould not ſerve for Precedents hereafter, as *Strafford*'s Death, and ſitting on *Sundays*, &c. How many Bills were reſumed being twice thrown out of the Houſe of Peers, as thoſe againſt Biſhops, and touching the Militia, *&c.* Yet were they taken in Debate the ſame Seſſion, which is point blank againſt the very Fundamentals of Parliaments? And was it not high Time to quell this Monſter, or rather to pull down this Idol? Truly this great Prudential Act of ſhutting up that Houſe, may well take place among thoſe many mighty Things his Highneſs had done.

Now, no Mortal has a more venerable Opinion of Parliaments than I, they are the Bulwark of our Liberties, the main Banks and Boundaries which keep us from Slavery, from arbitrary Rule, and unbounded Will-Government; this high ſuperintendent Court rightly conſtitute, never fails to bring forth ſomething extraordinary, tending to the Wellfare of the whole Kingdom.

But the late *Long Parliament* wanted three eſſential Properties, *viz.* Fairneſs of Election, Fulneſs of Members, and Freedom of Speech: Of the laſt, none was permitted to ſpeak, unleſs he ſpoke ſtill to the Rule of the Houſe, which was a pure Reſtraint, and ſealing up one's

Mouth; what a deal of Time was ſpent in bandying of Anſwers, in Remonſtrances, in Replys, Rejoinders, and deſcanting upon Words? So that the firſt ſixteen Months were ſpent in choping Logick with the King, and nothing at all done; For Fulneſs of Members, they were purg'd at laſt very Low, ſo that they were ſcarce the tenth part of what they ſhould have been in Number, and thoſe Members that remain'd were grown ſo corrupt and putrify'd, that nothing could cure the Houſe but an utter Diſſolution; according to the old ſaying,

------- *Immedicabile Vulnus*
Enſe recidendum.

Which great Diſſolution was made without the ſhedding of one Tear or Drop of Blood, as the *Portugal* Ambaſſador ſent Word to *Lisbon.*

Touching *Long Parliaments* in general, I am of Opinion it is the greateſt and moſt unſupportable Grievance that can poſſibly be to the *Engliſh* People, by reaſon, that beſides other Irregularities, it ſtops the Courſe of Law, in regard of the Privilege they have, not to be ſubject to Arreſt with others to whom they give Protection, now not one in four of that *Long Parliament* but owed Money, and what Uſe Sir *Peter T*---- and divers others made of that Privilege, to the Detriment of a thouſand poor Creditors, is too well known: So that ſuch Men were hardly fit to keep the Kingdoms Purſe in their Pockets ſo long.

Thus I have given a ſhort Account of ſome of the Matters of Fact that happened during the Reign of the *Long Parliament*, there would be ſubject enough for ſo many Tomes as would make a Library of it ſelf, if one ſhould relate all; but for Inferences and Concluſions in Point of Judgement, which may be drawn out of what hath been ſaid already, I leave that to be done in the Cloſet of every ones Private Conſcience, who with an impartial Eye ſhall peruſe what I have written.

F I N I S.

An Inquiry into the original Conſtitution of Parliaments in SCOTLAND, &c. in a Letter from a Gentleman in *Edinburgh* to his Friend at *London*, the Author of the preceeding Treatiſe.

SIR,

I Received your Letter, with a Manuſcript incloſed, being, *An Enquiry into the Original Conſtitution of Parliaments in* England, *&c.* But I fear I ſhall ſcarce be able to comply with your Deſire of acquainting you with the original Conſtitution of our *Scottiſh Parliaments*; not that the Task is in it ſelf ſo difficult; but as there are with us (and I doubt not with you too) ſeveral Lawyers who are not Advocates, and many Advocates who are not Lawyers; ſo you very well know that I am neither: And yet it would ſeem that none but a Lawyer is fit for handling ſuch a Subject. But the original Riſe of Parliaments in *Scotland* being ſo univerſally known to *Scotſmen*, and far leſs controverted than yours is, I ſhall adventure to give you ſuch an Account of it, from our own Statutes, as I am able,

Firſt then I ſhall acquaint you, That our *Scottiſh* Monarchy has been from its Beginning undoubtedly *Hereditary*, and handed down to our late Revolution, thro' a numerous Succeſſion of Kings, for two thouſand Years; the like whereof no other Nation on Earth can boaſt of.

As to our Parliaments, 'tis an irrefragable Truth among us, That of old they were only the King's *Baron-Court*, where at ſet Times in the Year (which we call *Head-Courts*) all the Free-holders were bound to give *Suite* and *Preſence*, (as is plain by *Ja.* 2. *Parl.* 14. *Cap.* 75.) which to this Day is in Uſe with all our common Barons: And from this (by the Way) 'tis very regularly inferred by that great Ornament of our Nation Sir *George Mackenzie*, That ſince we had Kings before we had Parliaments, the King's Power flowed not from them.

This giving *Suite* and *Preſence*, was in thoſe elder Times ſo far from being a Meeting in Order to conſult, adviſe, or make Laws (this being the King's undoubted Prerogative) that it was a meer Pageantry or Ceremony, whereby they acknowledged his Majeſty to be the *Superior* or Lord Paramount of all the Lands of *Scotland*.

And thus ſtood our Conſtitution, till a little after the Days of King *Robert Bruce*: For till that Time, our Nation never knew ſuch a Thing as a *Parliament* taken in the modern Senſe; Nay, notwithſtanding our intimate Friendſhip and Correſpondence for near a thouſand Years with the *French* Nation, yet the very Word, *Parliament*, came much later into *Scotland*, than into *England*.

But before I go further, 'twill not be improper to acquaint you, in a few Words, with the Conſtitution of our *Scottiſh* Parliaments, from the Time we had them in the proper Senſe, down till the late *Revolution*.

The Parliament of *Scotland* was compos'd of three *Claſſes* of Men, which we call *The three Eſtates*. The firſt of theſe was the *Biſhops*, (and before the Reformation, all other mitred Prelates, ſuch as *Abbots*, *Priors*, &c.) which with us, was always reckoned the firſt Eſtate; for they ſitting there in Right of their Sees, voted all of them before the Lay Nobility.

The ſecond Eſtate, of old, conſiſted of the whole *Nobility* or *Barons* of the Kingdom; by which were then meant not only ſuch as now paſs under the Titles of *Duke*, *Earl*, *Lord*, &c. but all *Free-holders* who held their Lands immediately of the Crown, without having a Subaltern, Superior or Over-Lord interpos'd: And theſe (nay generally all Members of Parliament) were bound to appear Perſonally, and not by Proxy, *Ja.* 1. *Parl.* 3. *Cap.* 52. But by Act *Ja.* 4. *Parl.* 6. *Cap.* 78. all *Barons* whoſe Lands are within a certain Sum of yearly Rent, are indulged not to come, except they be ſpecially called by his Majeſty.

It is true that this laſt Clauſe of the Act, has been long in Deſuetude, (our Kings not having uſed to call any in that Manner) yet I find Sir *George Mackenzie* and others of our Lawyers do incline to think, That the King may, yet call any Baron he pleaſes; both becauſe they were once bound as well as impowered to come, and this Faculty was only remitted for their own Advantage; and after that, this Act allows his Majeſty to call them. But to return,

By this latter diſpenſing Act, our ſecond Eſtate of Parliament became to conſiſt of two Sorts of Men, *viz.* the *Higher Nobility*, who ſitting by Patent, tranſmit their Honours and Privileges to their Poſterity; and the *Barons* or *Leſſer Nobility*, who did not ſit in Right of Blood, but holding their Lands, as I have ſaid, to a certain Value, of the Crown, were thereby capable of electing or being elected Commiſſioners from the *Shires* or *Counties*: ſo that they ſate in Right of Election only, and each County was confin'd to a certain Number of them, which it could not exceed. Yet ſtill our *Greater* and *Leſſer Nobility* or *Barons*, continued to make but one Eſtate of Parliament, as is clear from *Ja.* 6. *Parl.* 11. *Cap.* 35. and the Word *Laird*, which is the Name given to our *Leſſer Nobility*, is certainly nothing but a Corruption of the Word, *Lord*.

The third Eſtate was that of the *Royal Burrows*, whoſe Commiſſioners were alſo elected, and confin'd to *one* from each Burrow, except *Edinburgh*, which ſent two. But theſe were never (ſave once) choſen by *Poll* (that Cuſtom, which your Nation is ſo fond of, appearing very barbarous to us) but were elected by the Magiſtrates and common Council of the Burrow. Yet 'tis certain that our Kings were never limited to any ſet Number of Members of Parliament, but could erect as many *Biſhopricks* and *Royal Burrows*, and create as many Noblemen as they thought fit.

I ſhall only further acquaint you, that at the late happy Revolution, this Conſtitution was ſo far alter'd, That 1. The Commiſſioners of Burghs Royal were elected by *Poll* of all the Burghers. 2. That the then Convention having diſcarded one Eſtate, *viz.* the *Biſhops* (that they might ſtill keep up the Number of *Three*) were pleaſed to ſplit the ſecond, and make two of it. 3. That when that Convention

was

was metamorphos'd into a Parliament, they took away the *Lords of the Articles*; of whom I ſhall ſpeak anon.

The Lord high *Chancellour* by Virtue of his Office, preſided always in our Parliament, or when the Office of *Chancellour* was vacant, his Majeſty by a Letter, appointed whom he thought fit, to be their *Preſident*. But without the King's expreſs Order, they could neither Adjourn, Prorogue, nor Diſſolve themſelves; nor could they meet or continue to ſit, after his Majeſty's Pleaſure for their Adjournment or Diſſolution, was ſignify'd to them by the Mouth of the *Chancellour* or *Preſident*: And hence it was, the rebellious *Mock-Parliaments* which ſate betwixt the Years 1640 and 1650, eſpecially the *Convention Anno* 1643, having ſate without his Majeſty's ſpecial Warrant, that by Act 3. *Parl*, 1. *Seſſ.* 1. *Cha.* 2. *The Power of Calling, Holding, Proroguing and diſſolving of Parliaments, is declared* (tho' it was known to be ſo, many hundred Years ago) *to be Inherent only in the Crown, as a Part of his Majeſty's Royal Prerogative.*

Further yet, by our Conſtitution, tho' all the three Eſtates behooved to be ſummoned, yet the Parliament might have proceeded, tho' any one Eſtate was abſent, or being preſent did diſſent.

We had Eight *Officers of State*, who (tho' otherways having no Right to ſit) yet, as ſueh, had Votes. And to ſecure the Crown from impertinent or factious Bills, the Parliament, before they proceeded to Buſineſs, made choice of a ſelect Number, whom we called *Lords of the Articles*; and by 1 *Act* 3. *Seſ. Parl.* 1. *Char.* 2. theſe are ordain'd to be elected thus, *viz.* The Clergy are there appointed to choice Eight of the Nobility, the Nobility Eight of the Clergy, and theſe Sixteen to choice Eight Barons and Eight Burgeſſes, to whom are to be added the Officers of State, and the Chancellour is to preſide. The Work of theſe Articles was, to prepare Laws, Acts and Overtures, and order all Things remitted to them by the Parliament; And it appears from Act 218. *Par.* 14. *Ja.* 6. that nothing could be offered in *plein* Parliament by any Member, but that every thing behooved to be firſt preſented in theſe Articles (for eviting Confuſion) and if they did approve of it, then it was brought into the Houſe, otherways not.

Thus you ſee, that our *Scottiſh* Conſtitution of Parliaments, did widely differ from that of *England*: For as you never had any thing like our *Lords of the Articles*, ſo neither did our Parliament ſit in two diſtinct *Houſes*; nor would ever our leſſer Nobility have ſuffered themſelves to be claſſed as *Commons*: And as to making Laws, any two of our Eſtates (as I have already hinted) might proceed without the third; whereas with you, nothing can paſs into an Act, without the concurrence of both *Houſes*; whereby Buſineſs (as your own Experience tells you) is often retarded: Beſides, that the Kings of *England* never uſed (nor do yet) come to the Parliament, except at the opening and cloſing of a Seſſion; or when the Royal Aſſent is given to Bills; or on ſome extraordinary Occaſion; and then, if his Majeſty be to ſpeak to both *Houſes*, your *Peers* ſit in their Robs, and the *Commons* are called up to the Bar, and there ſtand uncovered: Whereas all the Members of our Parliament ſate in one large Room, and the King or his *Commiſſioner* at the Upper-end thereof, on a high

Throne

Throne under a Canopy of State, and was ſtill preſent at all their Meetings; nor could they adjourn themſelves ſo much as from Day to Day, without an expreſs Order from the Throne.

We had alſo another Meeting very like to a Parliament, called *A Convention of Eſtates*; which tho' it conſiſted of the ſame kind of Members as a Parliament, yet in this it differed, that it could make no *Laws*, but only lay on *Taxes*: And it is clear from the old Records of that Meeting, that in elder Times it conſiſted of any Number of the three Eſtates, called off the Street at random by his Majeſty; and yet 'tis obſervable that beſides impoſing of Taxes, they raiſed or ſunk the value of current Money, decided in Proceſſes, *&c.*

To procede to the Power of our *Scottiſh* Parliaments; 'tis pretty evident, that even after *Robert* the *Bruce* his Days, and after our Laws came to be made with their Advice and Conſent, even down to the happy Revolution; yet theſe Parliaments themſelves, have, when ever Occaſion required, ſolemnly declared our Kings to be *Abſolute* and *Sovereign Monarchs*, as in Act 251. Par. 15. Ja. 6. which runs thus, *Albeit it cannot be denyed that his Majeſty is a free Prince of ſovereign Power, havand als great Liberties and Prerogatives be the Law of this Realm, and Privilege of his Crown and Diadem, as any other King, Prince or Potentate whatſoever*: Which alſo is more fully declared by the 1 *Act Par.* 18. *Ja.* 6. where 'tis ſaid, *Whome the hail Eſtates of thetr bounden Duty, with maiſt hearty and faithful Affection, humbly and truly acknowledg s to be ſovereign Monarch, abſolute Prince, Judge and Governour over all Perſons, Eſtates and Cauſes, both Spiritual and Temporal within this ſaid Realm:* And many moe ſuch Laws of later Dates (which becauſe they are late, I ſhall forbear to quot) have been enacted to the ſame purpoſe.

Now, tho' 'twas never intended by our Kings, that by any ſuch Acts of Parliament they ſhould be declared ſo Abſolute, as to have a *Deſpotic* or *Tyrannical* Power, like that of the *Cham* of *Tartary* (who as an Eſſay of his Greatneſs, commands whole Troops to ride down Precipices) yet by theſe Statutes, our Kings are undoubtedly declared to have at leaſt ſuch a Power, as warrands them to do what's *Juſt* and *Reaſonable*, tho they have no Act of Parliament impowering them thereto. And therefore it was very juſtly inferred by Sir *George Mackenzie* in his Obſervations upon this Act, *That they are ill Subjects and worſe Lawyers who allow the King to do nothing, but that for which he can ſhew an Act of Parliament, ſince his being an abſolute Monarch, imply's his innate Power*; and without Offence we may add, That it follows by a better Conſequence, when any thing is doubtful, that his Majeſty may do the Thing in Controverſy, if it be *Juſt* and *Reaſonable*, providing his Power be not, as to that particular *limited* and *reſtricted*, by a particular Act of Parliament.

Moreover, 'tis obvious to the ſhalloweſt Underſtanding, from the very Words of theſe and other Statutes of the like Nature, that this Power of the Kings of *Scots*, did not at all flow from the *People*, but has ever been look'd upon as their own inherent Right: For in none of our Statutes was it ever ſo much as pretended or alledged, that the Parliament *granted* the King any of his Prerogatives, but barely *declared*, by way of modeſt Acknowledgment and humble Recognizance, what

what theſe were, according to that prudent and dutiful Aphoriſme of *Tacitus*, Lib. 4. *Annal. Principibus ſummum rerum judicium Dii dederunt, ſubditis obſequii gloria relicta eſt.*

It is true, that during our late unhappy Diſturbances in King *Charles* I. his Reign, when a rebellious Faction was contriving thoſe monſtrous *Mock-Statutes* (whereat I ſhall touch hereafter) which made this whole Nation a Scandal to the *Chriſtian* World ; Sir *Thomas Hope* his Majeſty's treacherous Advocate, and others of his Stamp (who very well deſerved the Character of *Ingegioſiſſime nequam, & facundi malo publico*) did advance this Subterfuge, for enervating the Force of all ſuch Statutes, *viz.* That our King's Power is there declared *Abſolute*, only in *Oppoſition* to that of the *Pope*, and therefore that all ſuch high flying Expreſſions in our Acts of Parliament, imported no more, but that he owned no Dependance upon the See of *Rome*: But this has long ſince been very juſtly exploded by all our Lawyers ; and indeed 'tis ſufficient to confute this groundleſs Conjecture, that in one of the above-cited Statutes, his Majeſty is declared *Abſolute* with reſpect to his impoſing *Taxes* or *Cuſtoms*, with which the *Pope* never pretended to have any thing to do. Beſides, that when ever this Power is in our Statutes aſſerted in Oppoſition to *papal Uſurpations*, 'tis always ſaid to be *Supreme*, not *Abſolute*: But when they ſpeak in Relation to the King's Subjects, 'tis called *Abſolute*, not *Supreme*.

In ſhort, it was never called in queſtion by any *Scotſman* (till that unhappy Rebellion in 1641) that with us the *Legiſlative Power* is only in the King, and that the Eſtates of Parliament barely *Conſent* ; nor was the King's Negative Voice in Parliament, ever (except at that time) ſo much as controverted ; by vertue of which Negative, his Majeſty can not only ſtop any Thing from *Paſſing* into an Act, but even any Bill or Overture to be ſo much as *Preſented* or *debated*. And hence it is, that (except in theſe *Mock-Parliaments* from 1640 to 1650) all our Statutes run in this or the like ſtrain, *Our Sovereign Lord, with Advice and Conſent of the three Eſtates of Parliament* ; and in all *Scottiſh* Laws and Law-Books, our Statutes are ſtill called *The King's Laws*, &c. And altho' in *Act* 7. *Parl.* 1. *Ja.* 1. and many other Statutes of that Prince, the Preamble begins with, *The Parliament Statutes, and the King Forbids*: Yet even by theſe Words 'tis fully more manifeſt, That the Legiſlative Power is in the King alone, ſince to *Forbid*, is the moſt vigorous Part of a Statute.

But if we proceed a little further in our Retroſpect, we ſhall find that in the old Statutes of King *Robert*, King *Alexander*, &c. 'tis always ſaid, *Dominus vult*, or *Rex ſtatuit*, or *deliberavit Rex*, without one Word of the Parliament or Eſtates: And in *Act* 105. *Parl.* 7. *Ja.* 1. *The King with Conſent of the* Council *Statutes* ; And in *Act* 108. *The King of Deliverance of the* Council.

Of this Power and Prerogative Royal of our Kings, I ſhall give you two or three Inſtances from the plain recorded Acknowledgements of Parliaments themſelves.

1. In the 11th. Parliament of King *James* VI. a Queſtion being ſtarted, touching the Qualifications and Condition of thoſe who ſhould repreſent the Barons or leſſer Nobility in Parliament ; this, tho' a Matter of as great Importance to our Conſtitution, as can well be imagined,

imagined, yet that Parliament found themſelves noways competent Judges in it, but by *Act* 113 of that Seſſion, left the Determination thereof intirely to his Majeſty, whoſe only Right to decide therein, they do moſt humbly acknowledge, and who thereupon ordained, that only ſuch as hold immediately of the Crown, ſhould thereafter repreſent a Shire or County.

2. By the above cited *Act* 251. *Par.* 15. *Ja.* 6. *The ordering and diſpoſal of Trade with Foreigners, is declared to be his Majeſties ſole Prerogative*: And from this I have heard ſome of our moſt eminent Lawyers very regularly infer, that our King's even without Conſent of Parliament, may impoſe upon foreign Commodities what Duties they think fit: And the Reaſon is pretty obvious, for ſince his Majeſty, according to this Act may *prohibite* all Trade with Foreigners, if he pleaſes, much more may he *Burden* it as he thinks fit.

3. By our ancient Laws and uniform Practice, the *Lord High Chancellour* of *Scotland* did ever preſide in all Courts, whether Supreme or Inferior, where ever he was preſent, which was ſtill lookt upon as inherent in his Office; yet by a ſimple Letter under his Majeſty's Hand, *Anno* 1663. (which to this Day was never once quarrelled as an Encroachment) the Lord Chancellour is expreſly forbidden to preſide in the *Court of Exchequer*; which plainly ſhews an inherent Power in the King, to *Diſpenſe* even with Acts of Parliament, which relate only to Government and his own Service.

It is true that ſome, whoſe Characters are pretty well known, have of late been at great pains to exalt the *Power* of Parliaments, and raiſe them even above the King (tho' by the Way, we never knew any ſuch thing as a Parliament where the King or his Commiſſioner was not preſent) and for this they adduce *Ja.* 6. *Parl.* 8. *Chap.* 150. where 'tis declared Treaſon *to impugn the Authority, or procure Diminution of the Power of Parliaments*: But if we ſhall compare that Act with the Hiſtory of thoſe Times, 'twill be pretty evident, that the Statute was only occaſioned by ſuch as endeavoured at that time (which their Succeſſors in our Days, have accompliſhed with a Witneſs) to exclude *Biſhops* from the Parliament, which is there declared *Treaſon*, becauſe the Conſtitution of our three Eſtates was judged a *Fundamental Law*, and therefore unalterable. Conſequently then, as none of the three could be legally expelled: So, it could not but appear a Crime of the higheſt Nature, ſo much as to endeavour it: But all this neither circumſcribes his Majeſties Power, nor adds it any thing to the Parliament that they had not before, the Conſtitution of three Eſtates being (as I have ſaid) a *Fundamental Law*.

For clearing of this, 'twill not be a miſs to inquire a little into the Nature of *Fundamental Laws*, ſince ſuch can in no Caſe be abrogated.

A Fundamental Law, *is that upon which all Statutes depend, and which was prior to, and the cauſe of all Acts of Parliament.* From this Definition I infer, That ſince ſuch a Law hath not its Authority from Acts of Parliament, it cannot be abrogated by them: And thus the Conſtitution of the Parliament of *Scotland*, *viz.* That it ſhould conſiſt of the King and three Eſtates; and in *England* of the King and two Houſes, is certainly a *Fundamental Law*, and conſequently the Act of Parliament in *England* taking away the Power of the King and the Houſe of Lords, was very juſtly declared null, as being againſt

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the *Fundamental Laws*: And so also after the Restoration of King *Charles* II. our *Scottish* Parliament found the taking away of one Estate, was a *total Subversion* of our Constitution, and therefore they *abrogated* and *annulled* all Acts, for that End made in the Parliament 1640, and thereafter during the Rebellion; the Reason whereof then given by Lawyers was, That if the Nobility and Burrows, should have voted out the Commissioners of Shires or Counties (tho' these be properly but a Part of the Estate of Barons, as I shall just now make appear) that Act would be certainly inconsistent with the *Fundamental Laws*.

And so indeed by the above-cited Act of King *James* VI. 'tis declared *Treason to lessen the Power of the three Estates of Parliament*, which must be meant of those who were the three Estates THEN: So that 'twas thought at the Restoration, that the splitting of one of the Estates, did not at all solve the Difficulty, and that because by our ancient and uncontroverted Laws, the lesser Barons were *Peers*, and equal to the greater; which can be unanswerably proved thus,

1. No Man can with us (no morethan in *England*) be tried but by an *Inquest* or *Jury* of his Peers, and yet a Nobleman may be tried by a *Jury* of lesser Barons. 2. The *Superior* of a *Ward Vassal* cannot oblige him to *Marry* any but the Daughter of his Peer; and yet a Nobleman, the *avail* of whose Marriage (as we term it) falls by his Wardholding, may be obliged to marry the Daughter of a lesser Baron. 3. A *Baron* being in the general, *any Person who holds his Lands immediately of the Crown*; it is plain that *majus & minus non variant speciem*; for a *Lord Baron* is a Baron as well as a *Duke*, and makes a Member of the same Estate of Parliament with him; and so does a *Laird*, who holds his Lands immediately of the King; for this Corruption of the Word *Lord* was at first introduced only to shew a *lesser Degree*, but not a *different State*: And 'tis undenyable that all Barons, till the Days of K. *James* IV. came equally to Parliament as one Estate; nor did they ever quit this Privilege, but only because the Expense of coming frequently to Parliaments was so great, 'twas allowed to them, by that Statute (which I have already quoted) that they might chuse two of every County to represent the rest. By all which 'twas thought at the *Restoration*, that the *lesser Barons* were highly injured by the Act 1640, as well as the *Bishops*, since as the latter were *expelled*, so the former were *Degraded*: which Expulsion of Bishops having also been indeavoured in King *James* VI. his Time (as is clear from our History, and is not denyed by any Party) it gave occasion to the making the above-cited Act, declaring such indeavours to be *high Treason*: But 'twas noways designed either to enlarge the Power of Parliaments, or give them any Handle to trench upon the Royal Prerogative. But as to the *Degradation* of the Barons, however great the Injury was in those Days, yet *now* considering the Condition into which the successful Practices of some designing Men, have cast this Nation, our Barons need not be very anxious for Redress. nor our Nobility to preserve what they then got, since *Bones in a Charnel-House don't strive for State*.

However, what is here said, I desire may only be understood with respect to what was endeavoured by a Faction in King *James* the VI's Days, and thereafter (*de facto* at least) effectuated in his Son's Reign *Anno* 1640. & *seqq.* and unanimously revers'd at the Restora-

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tion: For, as to our Laws made of late concerning theſe Things, and which are at preſent in Force, let us Reverence them ſo long as they ſtand; and I deſire that all that is above ſaid may be thus conſtrued. You'l pardon this ſhort Digreſſion, which yet I hope you will find not altogether impertinent; and now I ſhall return to the following Heads of your Paper.

The Queſtions which you have accurately handled, concerning *Obedience* to the Ordinances of Parliament, and about its *Fallibility* I ſhall paſs over, the Reſolutions you have given them, being as applicable to our Conſtitution (nay, to that of any Nation that has Parliaments) as to your own.

And as to your Queſtion about *Privileges of Parliament*, I might likewiſe refer you to your own Solution; except that, beſides *Freedom from Arreaſts*, The Parliaments of *England* have long ſtickled for that boundleſs and bottomleſs Thing they call *Liberty of Speech*, which you by very proper and pertinent Inſtances, have evinced not to be ſo extenſive, as is commonly thought: And I beg Liberty to add that *Such* a freedom of Speech in Parliament as your Nation generally contends for, was never yet, that I know of, allowed in any other civilized Country, much leſs under a *Monarchy*. But in *Scottiſh* Parliaments, there was never allowed, that I heard of, any greater *Liberty of Speech*, than was tolerated in other leſs ſolemn Meetings; Nay it has been always thought, that a greater Reſervedneſs and Modeſty in Speech (His Majeſty's Preſence exacting it) was to be expected there, than elſewhere; and tho' I can indeed afford no ancient Inſtances of Members of Parliament their being puniſhed by the King himſelf, for aſſuming any undue *Liberty of Speech* (the Reaſon whereof ſeems to ly in that juſt Deference, awful Regard and Veneration our Parliament Men have always carryed to his Majeſty's Perſon, who or his Commiſſioner, was ſtill preſent in all their Meetings) yet, during the Reign of King *Charles* II. when that Spirit of Rebellion, which for ſo many Years had inſulted Majeſty, was ſcarce worn out, ſome Inſtances are pretty well known of Members of Parliament, who by Order of his Majeſties Commiſſioner, have been *committed* for undutiful Speeches, and that without ſo much as *Adviſing* with the Parliament: But you will pardon me that I forbear to name them. And therefore, ſhall only further entertain you (according to your own Method) with a few *Hiſtorical Reflections* upon the Proceedings of our *Scotiſh* Mock-Parliaments, from the Year 1640 to 1650, wherein (as far as I narrate Matters of Fact) I ſhall make uſe of no other Vouchers than their own *Records* yet extant.

It will be needleſs to ravel ſo far back as the Year 1637, at which Time the unſeaſonable Endeavour to introduce the Liturgy in *Scotland*, miniſtred Occaſion to thoſe, who, in the Apoſtles Phraſe, *ſought Occaſion* to diſturb our Peace; for this you have done to my Hand. I ſhall only begin at the Year 1640, when the Parliament of *Scotland* began fairly to unmask themſelves, and with a bare Face brake in upon our ancient Conſtitution; where, as much as poſſible, I ſhall forbear mentioning *Engliſh* Affairs, and even with Reſpect to *Scotland* (except where the Connexion makes it unavoidable) I ſhall paſs over

both *Eccleſiaſtick* and *Military* Tranſactions, and confine my ſelf to *Parliament Buſineſs.*

In the firſt Place then, you know, that by one of the Articles of the Pacification near *Berwick*, in the Year 1639, it was agreed, that a *Parliament ſhould be called in* Auguſt *that Year*; where the King at firſt reſolved to be in Perſon; but fourteen of the prime Nobility and Gentry being called, ſome Weeks before the Time appointed for their Sitting, to wait upon him at *Berwick*, and give their Advice about the Manner of his Reception, and what Propoſals and Overtures were fit to be made in the Aſſembly and Parliament, they refuſed to attend him, and excuſed themſelves: Which was ſo ill taken by his Majeſty, that inſtead of coming hither, he returned to *London:* And no Wonder, ſince ſuch a Behaviour of a few of their leading Men, could afford his Majeſty but a melancholly Proſpect of the enſuing Parliament's Deportment.

Nevertheleſs, at the Day appointed they met, and to remove the leaſt Ground of Jealouſy or Mutiny, his Majeſty's Commiſſioner (according to his Inſtructions) gave the Royal Aſſent to the Ratification of all the Acts of the laſt Year's *Aſſembly:* Which Meeting, you know, had not only turn'd out the *Biſhops*, but continued to ſit and act as a lawful Aſſembly, after they were diſſolved by his Majeſty's Proclamation, and his Commiſſioner had left them.

But our Obſervation ends not here; for, after the Parliament had gained that Point, which was the only Cauſe of their Meeting, they ſtill proceeded further, and propoſed a great many Overtures concerning the *Conſtitution of Parliaments*, &c. never before heard of in *Scotland*, and plainly tending to unhinge the *Monarchy.*

This oblig'd his Majeſty to give Orders to his Commiſſioner, to adjourn them for ſome Months; Againſt which they only proteſted at that Time, and ſo broke up. Yet, by the Way, I muſt again put you in Mind, that the King's *Power* and *Prerogative* of Adjourning, Proroguing and Diſſolving Parliaments, even without their own Conſent, was never till then called in Queſtion with us.

The ſecond Day of *June* 1640, being the Day to which they were adjourned, his Majeſty by a Letter to his Commiſſioner, appointed a new Adjournment for a few Weeks, intending again to be preſent with them in Perſon; but here they made a Step yet further, and brake ſo far in upon him, as to declare *the Adjournment could not ſubſiſt in Law:* A ſtrange Inſolence! when they could not but very well know, that the Commiſſioner by himſelf, and without any Letter, might have adjourned them at his Pleaſure, and was anſwerable to his Maſter, not to them, for what he did. Yet, not only did they ſit, but, to add *Oppreſſion* to *Rebellion*, they paſt Acts of Forfeiture againſt ſome of the King's faithfulleſt Servants, and among others the renowned General *Ruthven*, for no other Reaſon, but becauſe he had refuſed to betray his Truſt, in ſurrendring to them his Majeſty's Caſtle of *Edinburgh.*

At this Time alſo they named a *Grand Committee* (a Thing never indeed before heard of with *Us*, but thenceforth found to be a very uſeful Engine to *Them*) with Parliamentary Power, to order and diſpoſe the Affairs of the Nation during their own Receſs. This *Committee* at their firſt ſitting, made a *bolder Invaſion* upon the Royal Preroga-

rogative, than hitherto the Parliament it ſelf had done: For, notwithſtanding the ſolemn Pacification the preceeding Year (no Breach whereof on the King's Part, was ſo much as pretended) they ordained an Army immediately to be levyed for invading *England*, and for equipping and maintaining it, appointed all ſuch as had Plate, to bring it in to be coined, for which the Owners were to get Bonds from ſome of the leading Men among them.

In *July* 1641, the Parliament ſate again, and, notwithſtanding of a Letter from his Majeſty, excuſing his not coming till the 15*th* of *Auguſt*, they reſolved to adjourn no more, but that they ſhould ſit daily.

At length the King arrived in *Scotland* on *Auguſt* 14*th*, and ſat dayly in Parliament till his Return: And a little after his Majeſty's coming down, our Army in *England* having got allow'd them by the *Engliſh Parliament*, not only all the Arrears of 850 Pound a Day, during their Abode there, but 300000 Pound, under the ſpecious Name of *Brotherly Aſſiſtance*, they a little thereafter came Home with their *Fidlers Fare*, as you called it, and were quickly disbanded.

In this Seſſion the Parliament made an Act, Declaring, *That thenceforth it ſhould not be in his Majeſty's Power to name the Officers of State without Conſent of Parliament.* This was yet a *bolder Step*, whereby he was deny'd the common Privilege of the meaneſt Subject, *viz.* to chuſe his own Servants: Nay further yet, to let him feel a little the Weight of this unheard of Privilege of Parliament, they refuſed to acquieſce in his very firſt Choice of a *Chancellour*, but obliged him to name another, who was and continued to be an avowed Enemy to the Royal Family.

The ſame alſo was enacted with Reſpect to the *Privy Council* and *Lords of Seſſion*; Conſtable of the Caſtle of *Edinburgh*, *Stirling*, &c. and many other Incroachments they then made, the Detail whereof would be as *Unpleaſant* as *Prolix*: I ſhall only therefore inform you, That to all theſe his Majeſty not only gave the Royal Aſſent, but loaded many of them who were known to be the moſt malicious of his Enemies, with Riches and Honours; and then returned with great Satisfaction, *having* (as he ſaid) *left a contented People.*

But he came quickly to perceive his Error; for no ſooner was he gone, but they began firſt to *whiſper* and next to *talk loudly*, of preſſing what they called a *Reformation* in *England*: and for their Encouragement to proceed, their Commiſſioners who had been ſent to *London* on Pretext of other Buſineſs, informed the Aſſembly which met the Year following, That there were great Appearances of a *Reformation* in that Kingdom; and withall ſent down the *Engliſh* Parliament's *Declaration*, of their Intention to overthrow *Epiſcopacy*, &c. as alſo Letters from diverſe private Preachers, to the ſame Purpoſe: To which the Aſſembly returned congratulatory Anſwers, and ſent up ſome of their Number to negotiate the Affair: And in the mean Time, that they might not want a Pretence to quarrel, the Committees both of *Church* and *State* petitioned his Majeſty for a Parliament, which at that Time they very well knew, could not be granted, he being then in the Fields on the Head of his Army, and all Things in Confuſion in *England*.

This Petition being waved by his Majeſty, their next Courſe was, to make yet a wider Breach in the *Wall*, if not to underminc the very Fundation of the *Royal Prerogative*: And becauſe it was obvious to the ſhalloweſt Diſcourſers, that a Parliament could not be called without the Royal Warrant, they therefore contrived a Meeting, to which they gave the Name of a *Convention of Eſtates*; which was yet a Step of Impudence beyond whatever they had hitherto done.

I have told you in the Beginning of this Letter, ſomething of the Nature of a *Convention of Eſtates* with us, *viz.* That it muſt be called by the King's Warrant, and when met, has no Power to make Laws, but only to offer a Tax to his Majeſty: But this unparalell'd *Convention* was (1.) call'd by no Authority: And then (2.) the very End of their Meeting was to levy War againſt their native Prince, who but a few Months before, had made ſo great Conceſſions to them, that themſelves *declared they could ask no more*; nor could they in the leaſt pretend, that from that Time he had ever given them the leaſt Ground to complain: So that all they had to ſay was, That in Caſe his Majeſty's Arms ſhould prevail againſt his rebellious Subjects in *England*, they feared (and their unparalell'd Guilt would have juſtify'd their Fears, had they not lived under a Prince whoſe too much Clemency was his only Fault) the Storm would fall next upon themſelves: And therefore they thought it convenient to meet it in the Fronteers, and with a bare Face, and without the leaſt Provocation, join with their King's open Enemies againſt him: Which, beſide other Conſiderations, was plainly contrary to what they had ſolemnly ſigned and ſworn, in their *National Covenant*.

But what I have here ſaid of the Nature and proper Work of our *Ordinary Conventions*, I intend not ſhould be apply'd to thoſe that are plainly *Extraordinary*, the ſitting whereof is occaſioned by the King's Abſence (whether Neceſſary or Voluntary, Commendable or Culpable) from his Dominions, there being none appointed to govern in the *Interim*. For, in that Caſe, the Repreſentative Body of the Nation, may, nay, indeed muſt neceſſarly meet, for ſettling the Government, *&c.* in this ſo preſſing an Exigent: So that as there is a Kind of Neceſſity of Nature for ſuch a *Convention*, ſo there wants not abundance of Precedents for it, both here, and in *England*, and beyond Seas. But that their juſt and neceſſary Power thus reſcued, I may aſſume my former Aſſertion, and conclude, that next to an open Rebellion with armed Force (to which, by the Bye, ſuch lawleſs Meetings are commonly the Prelude) all other *Conventions* without the Royal Authority, are the moſt dangerous Incroachment upon a Princes Prerogative. But I procced.

The grand Committee, which ſate always when there was no Parliament, ſummoned this *ſtrange Extra-regular Convention*; to meet the 22d of *June* 1643. This was preceeded by a ſolemn Faſt, which at that Time never miſt to uſher in the moſt deteſtable Acts of Oppreſſion, Rebellion and Blood-ſhed.

And now, the Myſtery of Iniquity, which before was only working under Ground, began to appear Aboard: For the Commiſſion of the Aſſembly, which always met during the ſitting of a Parliament, or grand Committee, and had a ſtronger Influence on publick Tranſacti-

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ons than they both, gave in a Remonſtrance to the *Convention*, which nevertheleſs was before-hand concerted with them, wherein they pretend Religion was in great Hazard by the Courſe his Majeſty was taking; and withal, at the *Conventions* Requeſt, preſented another Memorial, containing their Advice for Remedy, *viz. That this Nation ſhould look upon the Cauſe of their Brethren in* England *as their own, and vigorouſly beſtirr themſelves, for advancing the Cauſe of GOD in their Hands.*

Upon this the *Convention*, knowing the People's univerſal Satisfaction with his Majeſty's Deportment, did at firſt only raiſe three Troops of Horſe, for ſuppreſſing, as they pretended, ſome Moſs-Troopers about the Border, but really to overaw the King's Friends, who were very numerous in thoſe Parts: And a little after this, arrived an Expreſs with the Parliament of *England*'s Commiſſion, for an Aſſembly of Divines to meet at *Weſtminſter*, for reforming the *Engliſh* Church; which Aſſembly accordingly ſate, and within a little, wrote about it, as did alſo the *Engliſh* Parliament, to our *Scots* Aſſembly then ſitting, and freely told them they intended *to extirpate Epiſcopacy Root and Branch*, &c.

Hereupon the Aſſembly ſuddenly compiled a *Solemn League and Covenant*, to be ſigned and ſworn by all Ranks of People in both Nations; and having appointed Commiſſioners to repair to *London*, and join with the Aſſembly there, in carrying on the Work: They next ſent a Committee to the *Convention of Eſtates*, to crave that they would Ratify or Confirm the *Covenant*: which was no ſooner asked than done, with great Unanimity and Alacrity.

The next Step and natural Reſult of this, was a Proclamation by the *Convention*, commanding all betwixt the Age of Sixteen and Sixty, to be in Readineſs upon Twenty four Hours Advertiſement, to march when and whither they ſhould be ordered; which was ſoon followed by the Parliament of *England* and Aſſembly of Divines there, their Approbation of the *League*. After which it was ſworn at *Edinburgh* by thoſe of the Grand Committee, Privy Council, Commiſſion of the Aſſembly. &c. And within a few Days there arrived here a great Sum of Money from the *Engliſh* Parliament, for carrying on the Work. And not to be Behind-hand with them, the *Convention of Eſtates* here, having ſhortly thereafter met again, impoſed an Exciſe throughout the Kingdom on diverſe Commodities; which till that Time was never known in *Scotland*. And here 'tis true they minded that which was indeed the only Buſineſs of a *Convention*, viz. *to impoſe Taxes*, but the Miſchief was, that as they met avowedly without his Majeſty's Concourſe, ſo the great End of their Sitting, was for levying and carrying on a deſperate Rebellion againſt him.

But this was not all; for by their own Records, I find them meddling with other Things, which till then, no Parliament nor Convention did ever pretend to touch: And among other ſuch Acts, I have ſeen one which appoints all Preſentations to Church Livings, which are of his Majeſty's Patronage, thenceforth to paſs only the *Caſket* and *Privy Seal*; and declares that ſuch Preſentations ſhall be of as good Force, as if they had paſs'd his Majeſty's Hand. And this was the

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next Year ratify'd and approv'd in Parliament; which, upon the Matter, was to make the Keeper of the Caſhet and Privy Seal, who were Creatures of their own making, Patrons of near two Thirds of all the Churches in *Scotland*. But to return.

A formidable Army being thus Levied, and marching into the Bowels of *England*, and the King's Affairs now beginning to decline, his Majeſty was prevailed with to ſend down the Marquis of *Montroſe*, to give our *Scottiſh* Covenanters ſome Diverſion at Home: But the revulſive made the Country quickly become a Field of Blood; upon which I ſhall not enter, but confine my ſelf as much as poſſible, to the proceedings of Parliament.

The Parliament then, by vertue of a pretended Act for a *Triennial Parliament* made *Anno* 1641 (which is the 17th Act of that Seſſion) ſate down in *June* 1644; but there was no Commiſſioner from his Majeſty preſent, which was yet a further ſtep than hitherto they had gone: For tho' the late Convention was the ſame in effect, nay, had taken upon them to do what never any Parliament pretended to, yet before that Time they never aſſumed the Name, without the King or his Commiſſioners preſence.

Having choſen their own Preſident (another Innovation) a famous ruling Presbyter opened the Seſſion by a Sermon (which to this Day is highly celebrated by the Party) which I ſhould not here take notice of, as lying ſomething out of my Way, were it not for the Strange, and till then unheard of Doctrine therein advanced: For that which made up the Subſtance of the Sermon was, the ſtateing an Oppoſition betwixt King *Charles* and King *Jeſus*, and to preſs Reſiſtance to the former, in favours of the latter. I need not here mind you how maliciouſly falſe his very Ground-work was (*viz.* his taking it for granted that ſuch an Oppoſition there was) the *Heroick* and *Chriſtian* Deportment of that Prince both in publick and private Tranſactions, being acknowledged and revered all the World over: But allowing the Hypotheſis, yet certainly the Superſtructure was conjured up from the *Bottomleſs Pit*; for before that Time it was never heard, I ſay not among *Orthodox Chriſtians*, but even among thoſe that had herded themſelves among the *groſſeſt Phanaticks*, that riſing in Rebellion againſt a lawful Prince, becauſe he differed from them in ſome controverted Points of Divinity (for this they meant by *oppoſing King Jeſus*) was a commanded Duty. But that this Poſition (which could not but have a very grating Sound in *Scottiſh* Ears) might go the better down, this Sermon was ſoon thereafter followed by a Book publiſhed by the famous Mr. *Samuel Rutherford*, intituled *Lex Rex*, which was full of ſuch ſtrange Antimonarchial Poſitions, that *Buchannan* himſelf, who had ranſakt Hell for invectives againſt Monarchy, was thenceforth lookt upon to be but a puny Republican, when compared with this new Oracle.

The next thing I find this *Scottiſh Rump* imployed about, was (what's but conſequential to that they had already done) their proceeding to the Forfeiture of the Marquis of *Montroſe*, the Earl of *Airly* and others his Majeſty's faithful Servants; and (which was a ſtrerch farther than any hitherto they had made) their naming the Earl

of

of *Crawfurd-Lindſay* to be Lord High Treaſurer, without ſo much as asking the King's Advice or Conſent. And to take a ſtep further,

In *January* 1645, the Parliament ratified and confirmed the Act of the late Convention concerning the *Exciſe*, and in the general, declared it a lawful Convention, tho' they could not be ignorant, that even their own Meeting was both *unprecedented* and *treaſonable*.

Nevertheleſs ſtill on they went, and gave their Approbation to a *Directory for Worſhip*, which had been compiled by the Divines at *Weſtminſter*, and ſent down for the Approbation of our Aſſembly and Parliament. And, *to fill up the Meaſure of their Iniquity*, they in *November* thereafter, cauſed put to Death that Glory of the *Scots* Nation Sir *Robert Spotiſwood* Lord Preſident of the Seſſion, and ſeveral other Perſons of Quality, who had been taken Priſoners in his Majeſty's Service at *Philiphaugh* and elſewhere. But it would far exceed the deſigned Brevity of this Letter, barely to point at the Baniſhments, Impriſonments, Confiſcations, Forfeitures, nay ſolemn Murders, his (Majeſty's loyaleſt Subjects being then uſually mockt into their Graves by Pageantries of Juſtice) whereby theſe Scourges of this miſerable Land, at once ſatisfied their *Avarice*, and glutted their *Revenge*; to which, beſide their own Native Propenſion, 'twas then loudly talked they were principally incited by ſome leading Men among the *ruling Presbyters*, who thereby ſadly verified the old *Axiom*, *corruptio optimi eſt peſſima*.

One great Cauſe of this ſo deep Malice and deliberate Revenge, was ſaid to be a *loyal Bond* ſome while before this, ſubſcribed by many of the Nobility, Gentry and others, who ſtood firm to his Majeſty's Intereſt, which run much in the ſtrain of the two *Manifeſto's* you have favoured me with, which were publiſh'd by the *Engliſh* Royaliſts. In this *Bond*, among other things the *Solemn League* is as *ſolemnly* declared a *traiterous Paper*; which Words raiſed the Splen of the Aſſembly to that height, that immediately they emitted a *Declaration*, wherein they pronounced the *Bond* to be full of *Blaſphemies*, &c. which Declaration was ſoon thereafter approven in Parliament; and to counter the Loyal Bond, having in the Year 1641, as I have told you, declared themſelves a *free Parliament*, notwithſtanding they were adjourned by his Majeſty's Commiſſioner, they now by another Act, ordained all Perſons to ſign a *Bond to maintain all the Acts they had made or ſhould make, on pain to be holden as Enemies to the Common Cauſe*, &c. and thereafter declared all ſuch as refuſed to ſubſcribe the Covenant, *incapable of any publick Truſt*.

In ſhort, the next Year thereafter, the grand Committee reſolved upon delivering up the King to his Enemies, without reſerving any Conditions in his favours, but abſolutely to leave him to the Mercy of thoſe Men, who during the four Years preceeding, had been doing all that powerful Malice could invent, to deſtroy his Sacred Perſon. In conſequence of this Reſolve, they alſo determined to withdraw their Army from *England*.

It is true, that ſome few among them, who *ſecretly* loved, but durſt not *openly* abet his Majeſty's Intereſt, gave this Reaſon why the Army ſhould yet ſtay in *England*; (for whatever Arguments they could fetch from their common *Duty* to the King, were ſo far from *prevailing*,

vailing, that they were *turned* againſt them, as Motives to its withdrawing, that ſeeing the Army was ſent thither for proſecuting the Ends of the Covenant, and Work of Reformation, it could not with Credit be recalled, till thoſe Ends were attained: To which the Committee of the Church had this ready Anſwer, *That tho' the Work of Reformation was not yet compleated in* England, *yet the Army ought to be withdrawn, becauſe they could not preſs Mens Conſciences:* A ſtrange Tenderneſs in them towards their diſſenting Brethren in *England*, when 'tis conſidered that in the Year 1643, that ſame Sett of Men had compelled Perſons of all Ranks, and that on pain of Baniſhment, Confiſcation, Impriſonment, &c. (Strange Weapons in a *Spiritual* Warfare!) plainly againſt their Conſciences, to ſwear the Solemn League.

But a little thereafter, their true Reaſon for abandoning the King and calling home the Army, did pretty evidently appear: For the *Scots* Commiſſioners at *London* having ſignified to the Parliament here, that they had agreed with the Parliament of *England* for 200000 *l.* in hand, and publick Faith for as much more, upon Condition of their recalling their Army, and delivery of the King, &c. this as being very choaking to the generality of the Nation, behoved to be backt by a Paper from the Committee of the Aſſembly, which they called a *Warning*; wherein they barefacedly exhort the Parliament, not only to keep up a good Correſpondence with their Brethren in *England*, but totally to diſown and abandon his Majeſty's Intereſt.

Yet this Step, wicked and flagitious as it was, had the deplorable Effect they deſigned and wiſhed for: For in the beginning of the Year 1649, theſe Commiſſioners at *London* ſent down their laſt Advice, That *the Bargain* (I add, *of Sale*, ſince ſuch certainly it was) *was now completed, and that there wanted nothing but the Parliaments Conſent, to their receiving the* Money; *only the Army behoved to be withdrawn, and the King left in the Hands of the Engliſh, without any Condition in his Favours, or any Reſpect had to our Intereſt in him.* All which, tho' indeed the Parliament agreed to, yet to do my Country Juſtice, I muſt beg Liberty to obſerve, that 'twould be very unjuſt to charge it upon our Nation as their Deed. For beſides that, here was no Parliament at all (not only the *Spiritual Lords*; but the *King* himſelf being debarred) 'tis plain from their *Sederunts*, that not one Third of our *Nobility* was preſent: And for the *Barons* and *Burrows*, as the greateſt Part even of theſe were abſent, and of ſuch as were preſent, very many diſſented, and entred their Proteſtations againſt it (as well knowing that not the hundreth Part of the Nation would ever Conſent to an Action of ſo unparalelled a Wickedneſs) ſo, the Generality even of the Conſenters themſelves, being overawed by a powerful Army, the Leaders whereof had gotten ſuch vaſt Sums, and were to get much more for their Villany; this could never with any Propriety of Speech (tho' the Meeting had been full, and all had voted the ſame Way) be denominated a *Parliament*, far leſs a *free one*.

Nay, even the Generality of the *Clergy*, as bad as they were, yet abhorred and diſclaimed this barbarous Wickedneſs. Nevertheleſs, foreward the Bargain went, and in a few Days the Money was paved, and the King's Perſon delivered up; and the Army after their Return, ſo narrowly ſearched and purged, that all, whether Officers or

Souldiers (who were not a few) of whom they had the leaſt Suſpicion of any Tincture of *Malignancy* (a Name at that time given to thoſe who had a Warm-ſide towards the Royal Family) were turned out, which was ſo much the eaſier to be done, that each of them upon their Diſmiſſion received three Months Pay, over and above what they had ſerved for ; and the remainder of the *Price of that Royal Martyrs Blood*, was divided among the leading Men of the Party, as they thought fit. After which, the Parliament having no more to do, cloſed the Seſſion, after having named (as was then uſual) *a Grand Committee*, to Rule the Nation till their next Meeting.

And here, by the way, I ſhall only further take notice, that when his Majeſty was delivered up to the *Engliſh* Rebels, our *Mock-Parliament* in *Scotland* publiſhed a *Declaration*, which I have ſeen in their Records, wherein they hypocritically declare (in the ſtrain of a *Prophecy* or *Prediction*, as I take it, but no *Proteſtation*) *that there would be no harm done to his Perſon, Poſterity*, &c. But took no manner of Engagement from the *Engliſh*, for his Safety. And I leave it to the Judgement even of a ſober Heathen, whether theſe Men, who ſo unaccountably delivered up their Prince to the Will of his Mortal Enemies, may be juſtly charged with all the fatal Conſequences of ſo treacherous a Bargain.

After this Treatment of the King, 'tis not difficult to divine what his Servants might expect: And ſo indeed it was, that the Grand Committee I have but now mentioned, having for ſome preceeding Years ſtrangely Tyrannized over the Perſons, Fortunes, nay Conſciences of their own Country-men ; now that One great Spring, *viz. The Monthly Maintenance* and *Brotherly Aſſiſtance from* England (which for a long Time had fed their Avarice) was dryed up, they began with much greater Cruelty than ever, to take more compendious Methods of ſqueezing the Purſes of the Nation : And, to paſs many Others, there was one Courſe they took at this Time, which was of all that ever I read of, the moſt *Arbitrary* and *Tyrannical*: For, calling before them Men of all Qualities (but eſpecially ſuch as they ſuſpected of *Malignancy*) they commanded them to lend (as they termed it) to the Publick, ſuch Sums as the Committee thought fit, and in caſe of their Inability or Refuſal, the Sum was doubled or trebled, and the Perſon himſelf comitted : only to ſome who wanted ready Money, one or other of the *Collectors* would offer to lend it upon Bond, which they were conſtrained within a ſhort Time to repay with Intereſt, which was then very high. So that by this one Method the Committee well nigh beggared the whole Nation, and drew into their own Hands near all the coined Money in the Country.

To this Gratification of their *Avarice* they added that of their *Malice* and *Revenge* ; having much about the ſame Time, cauſed put to Death two of the gallanteſt Gentlemen of the Nation, without ſo much as pretending any other Cauſe than their *Loyalty*, and being found in the King's Service ; and that too without the leaſt regard to his Majeſty's *Remiſsion*, which they had in their Pockets.

But thereafter, in the Year 1648, when the King then Priſoner in the Iſle of *Wight*, had rejected the *Engliſh* Propoſals (to which 'tis ſaid ſome of our deſigning Men adviſed him, that ſo the Breach betwixt

twixt him and the *Engliſh* Parliament might become irreparable) and gone in with thoſe of the *Scots*, for a further *Reformation* in *Scotland* (as it was called) and that the *Scots* Parliament had fairly approven thereof; yet this being likely to draw towards an Accommodation (which of all things elſe, our principal Managers both of Church and State, moſt dreaded) the Committee of the Church voted his Majeſties *Conceſſions* at the Iſle of *Wight*, *to be ſo far from Satisfactory, that they were deſtructive to the Covenant*, and to the ſame Purpoſe publiſhed a *Declaration*, which the grand Committee of Parliament no way reſented; nay, nor even the Parliament it ſelf, which ſhortly thereafter met.

Nevertheleſs (whether out of *Shame* or *Secular Ends*, 'tis hard to determine) they at length reſolved to put the Kingdom in a Poſture of War, for his Majeſty's Relief; againſt which the Committee of the Church proteſted; and many Parliament Men, who had diſſented, retired Home to their reſpective Counties in order to obſtruct the Levies, which many of them, eſpecially in the Weſt, did with open Force: And thereafter when the Army was actually marched into *England*, the General Aſſembly publiſhed a *Declaration*, wherein they rail fiercely at the Parliament, Army, *&c.* and with utmoſt virulency ſet forth the *Sinfulneſs and Unlawfulneſs of engaging* for the Relief of their only lawful Sovereign, out of the Hands of his rebellious Subjects; to which nevertheleſs they were ſo ſolemnly bound by their *Solemn Covenant*.

I ſhall not trouble you with an Account of what paſt at fatal *Preſton*, nor of the Tyranny exerciſed over Mens *Conſciences* by our Church-men (after they ſaw that unfortunate Attempt wholly diſappointed) compelling theſe Gentlemen who had hazarded their All for his Majeſty's Reſcue, to do Penance in Sackcloath, and to mock GOD by a publick Profeſſion of Repentance; for that which in their Heart they believed to be (as undoubtedly it was) both their *Duty* and *Intereſt*.

Yet there is one Particular I ſhall take Liberty to inform you of, which, tho' extant in a publick Record, is not ſo commonly known, eſpecially among Strangers; but which withal will by it ſelf be ſufficient to give you a true *Character* of the Temper and Genius of our *Ruling Presbyters* at that Time. The Story in ſhort is this: When the Army under Command of Duke *Hamilton*, was levying for his Majeſty's Relief, the City of *Edinburgh*'s Contingent of Men being one Regiment, they borrowed 50000 Merks *Scots*, from a Gentleman who was then our *Conſervator* in *Holland*, for helping to raiſe and equippe their Proportion of Men, and gave him a plain common Bond ſigned by the Magiſtracy, without the leaſt Mention for what Uſe the Money was borrowed. but after the defeat at *Preſton*, the Gentleman's Repreſentatives (himſelf being by that Time dead) demanded Payment of their Money; whereupon this intricate *Caſe of Conſcience* was by the common Council of the City, laid before the Commiſſion of the Church then ſitting, in a Memorial they preſented to them, which, together with their Solution, is inſert in the City Records, *viz. That they having indeed borrowed the Sum, without mentioning the Uſe was to be made of it, and yet having employed the Money towards the Equipping*

their Contingent of Men for that unlawful Engagement, whether in Point of Conſcience they ought to repay it to the Creditor or his Heirs? Which *Query* the Reverend Fathers fairly reſolved in the *Negative*. A ſtrange Piece of Divinity! yet very Conſonant to the Doctrine and Practices of thoſe Times. But 'tis not a little ſtrange that thoſe great Pretenders to ſuch eminent *Piety* towards *GOD*, ſhould yet by this ſhort but ſubſtantial Reſponſe, evacuate all *Faith* and *Truth* among *Men*: For, tho' it were granted that the Lender was Privy to the Deſign of imploying the Money towards the above End, and let it be alſo granted, That, that End was an *unlawful One*, yet, why ſhould he (and far leſs his innocent Children) ſmart for the Fault of the Borrowers, and they thereby be Gainers: Nay further, granting (what no Man ever maintain'd) that he who lends to a Community, ought to loſe his Money if it be miſ-imploy'd; yet, how comes the Forfeiture to devolve on them? This is indeed a Doctrine, that for comprehenſive Wickedneſs, far outbids any Thing that was ever yet vented by the very worſt of *Phanaticks*; for, tho' ſome ſtrange Poſitions of this Kind (perhaps for Arguments ſake) have been advanced by ſome modern Caſuiſts among the *Jeſuits*, yet they were never owned nor maintained by the Society it ſelf, far leſs by the Church of *Rome*, as this was by thoſe revers'd Evangeliſts, who look'd upon themſelves to be the Repreſentatives of the *Scots* Church.

But 'tis eaſie to diſcern, that this *Caſe of Conſcience*, with its *Solution* then given, needs no Commentary, the bare Recital of it being ſufficient to diſguſt, I ſay not a *Chriſtian*, but even a *ſober Heathen*, at Men inſpired with ſo helliſh a Genius. Yet one Circumſtance there is, which I muſt not forget, *viz.* That ſhortly thereafter, when King *Charles* II. had arriv'd in *Scotland*, he held a Parliament at *Stirling*, to which Meeting the poor Gentleman's Children applv'd for Redreſs; and that Parliament was ſo bold as humbly to differ from the Church, and appointed the Money to be pay'd with Intereſt; whereupon 'twas facetiouſly obſerv'd by an ingenious Gentleman, That, *tho' the Church had abſolved the City of* Edinburgh *in Point of Conſcience, yet the State thought it reaſonable to condemn them in Point of Law.* But I beg Pardon for the Digreſſion, and return.

The Parliament at their laſt ſitting, had oppointed the next Parliament to meet in the Year 1650, but gave Power to the Grand Committee to call one ſooner, *pro re nata*; which now they did upon *Cromwell*'s Approach towards *Scotland*, and their firſt Meeting was in the Beginning of *January* 1649. where no more than fourteen Peers were preſent: And all honeſt Men refuſing to ſerve for Counties and Burrows (as knowing that not only they were called without any Authority, but behooved to be intirely influenced in their Proceedings, by *Cromvel*) the Repreſentatives of theſe were generally ſuch as openly owned and avowed their Malice at the *Royal Family*; ſo that it was pretty eaſie to conjecture what their Behaviour would be.

And accordingly, not only was all that had been done the Year preceeding, in Favours of his Majeſty, revers'd, but thoſe whom they nam'd *Malignants*, viz. ſuch *Presbyterians* as had any Way countenanced the laſt Years Attempt to relieve the King (for true *Tories* were not to have the leaſt Grain of Mercy) ranked in four Claſſes; The firſt

first conſiſting of thoſe, who were to be Incapacitated of publick Truſt during Life. The ſecond for Ten Years. The third for five Years. The Fourth till the next Seſſion of Parliament. And this was that famous *Act of Claſſes*, whereof I doubt not but you have heard.

But they were a little interrupted in their Proceedings, by the News which they receiv'd from their Commiſſioners at *London*, acquainting them that the Grand Committee in *England* was haſtning his Majeſty's *Trial*.

And now, tho' ſo fair an Occaſion was put in their Hands, of doing ſomething for the Relief of their injured native Prince, in ſo great a Pinch, whereto the *Covenant* it ſelf expreſly ingaged them; yet notwithſtanding, by two of their Inſtructions to their Commiſſioners, which I ſhall give you from their own Records, 'tis pretty obvious they were upon the ſame very Lay with your Gentlemen at *Weſtminſter*.

The one was, *That they ſhould not Debate the Queſtion, Whether the King ſhould be put to Death? but only endeavour a Delay.* The other, *That they ſhould in no Caſe ſpeak or do any Thing, that might be the Occaſion of a National Quarrel.* So tender were they now grown of a Rupture with *England*, who yet had twice within the ten Years preceeding, invaded that Nation, without the leaſt Ground of Offence given them, but meerly upon the Invitation of a rebellious prevailing Party there.

I am loath to go further, being ſure to find ſtill (in the Prophet's Phraſe) *greater Abominations*, Ezek. 8. 6. Yet, from the irrefragable Truths I have here ſet down, I hope 'tis pretty evident, That the *Scots* Nation was no leſs bound to *Cromwel* for cutting off our *tyrannical* and *arbitrary Rump*, than *England* was for turning *yours* out of Doors. And indeed, as you may ſee by what I have briefly told you from their own Records, that the Wickedneſs of our Governours during thoſe woful Days, far exceeded yours; ſo, (as it was but juſt) our Puniſhment alſo was proportionally greater. For, tho' 'tis undenyable, that an exact Catalogue of all the Calamities *England* then groaned under, muſt contain almoſt all the Inſtances wherein humane Nature may be paſſive, there being ſcarce any of Man's ſuffering Capacities, to which they were not liberally apportioned: Yet there is one Inſtance, wherein I muſt ſay our Sufferings far out-ſtript yours. You know the moſt imbittering Circumſtance of *England*'s Calamity was, *The having Servants to Rule over you*; a Thing indeed which rendred your Subjection as mean and ſervile, as it was ſharp and preſſing, and which you were then ſo ſenſible of, that it never fail'd to bring up the Rear of your Complaints: But ſtill 'tis to be conſider'd, That your Sufferings had this allaying Circumſtance, That your Oppreſſors, how Vile and Abject ſoever, were yet your own *Country-men*: Whereas, after *Scotland* was reduc'd by *Cromwell*'s Army, our Subjection was not only to *Servants*, but *Strangers*: And if our own ſad Experience of ſuch a Juriſdiction, had not too much qualify'd us to judge, I might appeal to the univerſal Vote of Mankind, which of theſe two Conditions was moſt deplorable. Nay, there were none appear'd more ſenſible of it, when once the Yoke began to Gall and Pinch themſelves, than thoſe very Men, who had moſt contributed to the wreathing it about our Necks, and ſo had been both Active and Paſſive in our common Sufferings.

But

But the Misery of such a Condition is so pathetically describ'd by a great Man among themselves, (*viz.* Mr. *Samuel Rutherfoord*, in a practical Discourse concerning *the Prevalency of Faith and Prayer*, Pag. 20 and 21.) that it will be the best Service either to you or him, to refer you thither. For indeed 'tis a Theme so Melancholy, that I am so far from inclining to inlarge upon it, that it makes the Pen drop out of my Hand: And therefore, as a learned and pious Country-man of yours, speaking of the dreadful Oppressions and Tyrannies of that Time, wishes, *That the Memory of them were so extinct, that it might remain no where but in the penitential Litanies of the Offenders*; So shall I here conclude with a Wish, That tho' the Posterity of those Disturbers are Heirs to their Fortunes, yet, That they may beware of inheriting also their Faults, by Re-acting them; lest the same or heavier Punishments be also intailed upon themselves.

I am, &c.